

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

95
0mg

Elizabeth Nelson

Et al

Case No. 2:22-cv-10918

Plaintiffs

-VS-

Magistrate: Anthony P. Patti

SERVICE TOWING INC

et al. Defendants.

FILED USDC - CLRK DET
2023 SEP 13 PM4:25

RESPONSE TO ECF 79, CONSOLIDATED WITH MOTION FOR SUMMARY
JUDGMENT INSTANTER OR VIA LEAVE

No. 17-1907 *Smith, et al. v City of Detroit, et al.* -6- inferences from that evidence in the light most favorable to the non-moving party.” Id. (quoting *Ciminillo v. Streicher*, 434 F.3d 461, 464 CA6). Government officials are immune from civil liability under 42 U.S.C. § 1983, provided “their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Pearson v. Callahan*, 555 US 223, 231 “To determine whether.. government official.. entitled to qualified immunity, ..analyze (a) whether.. facts, when taken in ..light most favorable to ..party asserting ..injury, show .. officer’s

“A constitutional violation is clearly established when “contours of the right.. sufficiently clear .. reasonable official would understand that what he is doing violates that right.” Anderson, 483 U.S. at 640 . Facts of complaint ECF must be accepted as true. Per ECF6 amended complaint, ECF74 proposed amended complaint facts must be accepted as true same rewritten herein. ECF 79 deposition confirms facts in complaint that Ps’=Thrower , Nelson or PT=Thrower, ECF 71 Ex 2, depo Ex 7 annexed hereto PN=Nelson rented apartment @ 7568 Hudson Ave Warren MI which included adjacent side lot 7560 Hudson Ave 5/1/20. ECF 74 “23 “On 5/1/20 ...Ds’..Scott, Cummins, Ghanam, Gauss #22, Bruce Hertz (see Ex 1 Admissions), Randy SULLIVAN (Ps’ were mislead as to his name-in 7/24/23 deposition-hereinafter depo, by Service Towing Inc, Able Towing LLC hereinafter STI attorney)...entered curtilage of property at 7568 Hudson..when courts were open, covid..was raging..no court order was entered and no search was obtained and..gov..(D) Fouts had issued emergency orders ..covid.. were in effect 5/1/20.” (D) Scott admitted in Ex 1 Interrogatory “7) Where you present 5/1/20 @ 7568 Hudson Ave Warren MI and the adjacent lot when the 4 vehicles were towed Response Yes”, yet in Ds’ brief claim he wasn’t present to argue immunity. The law is clearly established in 4th Amendment of United States Constitution (USCA) & applicable to states via 14th Amendment USCA. ECF 74 Facts “34) ..tow 4 cars and take P-Thrower personal property,..4th USCA “right of the people to be secure

in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation". 4th Amendment includes "curtilage" around private property which is area visible from the porch (citation omitted). ECF 74 Facts "24)..per custom and policy ..city of Warren..consent decree *NILI 2011 et al v Warren* 15-cv-13392, if refused "12. Equitable relief..city of Warren shall seek an administrative warrant for such inspection"*NILI* ECF 71 Ex 39. Ds' have reference Ex8 alleged blight ticket ECF 79, annexed hereto Ex 8 but a review of that ticket, issued 1/22/20 was not for blight- but "failure to obtain certification" of structure citing non-blight code. See Ds' ECF 79 PageID1259 "21...the 'failure to obtain city certification" *blight ticket*...", is false, a plain reading of ECF79 Ex 8 ticket was "failure to obtain city certification", period, no "blight". Code on ticket Ex 8 is NOT for blight statute. Ps' earlier briefed "blight statute unconstitutional" but since no "blight ticket" was issued-it becomes moot-it is not court's habit to rule on constitutionality of blight statute when blight ticket is not before court. (citation omitted). Further, in depo Ds' attempt to make the most PT did not appear Mar 4 20 hearing-to address the ECF79 Ex8 1/22/20 "failure to certify" ticket. See ECF 79 Ex 8 1/22/20 "failure to certify" a property ticket has nothing to do with 5/1/20 towing, and taking personal property without court order, without probable cause, without warrant actions of Ds' per well settled law that are now

before this Court in spite of Ds' attempt to boot strap-inference stacking into "blight" into their ECF Ex 8 ticket-showing consciousness of guilt. A failure to certify a property does not state as punishment that city can take all cars and personal property off the property. Further, per record, the cars were taken as abandoned under MI law abandoned car statute that on its face did not apply to licensed, insured, plated cars registered to the 7568 Hudson Ave address. Per ECF79 Ex 1 depo ECF79-2 PageID 1281 depop 18: ln 17+, Ex 5: "A. Where's the ticket that goes with this?...March 4th 20" ((D) mayor, gov..& World Health Organization at the end of February had already declared COVID a pandemic) "In February she (PN) was up in Michigan, and I sent her down with cash to handle this. Q. You're pointing to (PN) Ms.. Nelson? (p 19 ln 6) ..she said the place was locked up, city hall was locked up, it was like a ghost town. Didn't you say that to me? (PN) Ms. Nelson: Yes, correct. (ln 18) A. This hearing you're (allegedly) holding when there's a worldwide pandemic going on and I'm in Ohio getting treated for prostate cancer?...is this guy a doctor..do they know what covid is at this time? (p 20 ln 13+) A. You expect me to come out of Ohio when the covid is jumping off...I never got this ticket..This is when people are dieing..(p 20) nobody knows what covid is going to do. It could have killed the ..population on the face of the earth..in 1920 the great flu...killed 40 million people...This was equivalent to this..". Court can take Judicial notice covid killed as of 9/11/23 US=1,127,152,

6,956,887 officially worldwide & 16.5 million worldwide unofficially. Ds' attorney (p 21 ln 17+-22) appear to have no knowledge that Warren property code was earlier declared unconstitutional. (ln 25) "Q. So was it a settlement or was it a ruling by the (p 22) court? A. It was a settlement. *NILI v Warren*..because there was no appeal process....never notified me .. revamped the code..come out in the middle of covid to appear at this hearing for ..revamped code that was declared unconstitutional ..city agreed it was unconstitutional..use in my brief". In *Mullane v. Central Hanover Bank & Trust Co.*, 339 US 306 Court held NOTICE was not US Constitutionally delivered because individuals named in the combined trust were not notified in a US Constitutional manner" No notice was given to Ps' before PN 4 cars were towed, PT personal property taken 5/1/20. It is the taking of Ps' cars, personal property without constitutional notice that is in violation of the US Constitution providing "meaningful notice and an opportunity to be heard", that is US Constitutional violating alleged. 4th USCA well settled law includes cars. 14th USCA protection of property has been broadly extended to "any significant property interest." *Boddie v Connecticut*, 401 US 371, 379, it's undisputed..uninterrupted use of one's vehicle is a substantial property interest, .. before the 'local government may so interrupt its use, the owner is entitled to due process'" *Graff v Nicholl*, 370 FS 974, 981; *Bell v Burson*, 402 US 535, 539. (Ds') allege ECF 79 PageID.1271 "property removed May 1, 20 and July 2021 was

removed pursuant to a court order”. This is false. There was no court order 5/1/20 & the 7/21 date has nothing to do with the facts in this complaint. Per facts ECF 6 *supra* same as if rewritten herein (D)s’ violated (Ps’) well settled law 4, 14th USCA rights, searching property, seizing personal property & 4 cars. Hence, Ds’ cannot claim immunity for improper seizure prohibited by 4th Amendment. “Goals 4th Amendment include protection of privacy against arbitrary invasion” *US v Ortiz*, 422 US 891, *Chimel v California*, 395 US 752; *Berger v. NY*, 388 US 41, .. made clear *Jacobsen*, *supra*, explained 1st clause of 4th Amendment “Protects two types of expectations, one involving ‘searches,’ the other ‘seizures.’ ‘search’ occurs when an expectation of privacy that society is prepared to consider reasonable is infringed. A ‘seizure’ of property occurs where there is..meaningful interference with an individual’s possessory interests in that property.” 466 US @ 113. *Horton v California*, 496 US 128, 133; 4th USCA applicable to Ps’ via 14th amendments due process clause. (Ps’) aver both “search” & “seizure” rights were violated when (Ds) entered (Ps’) leased property-at 7568 Hudson Ave-a 4 unit-built in 1940 (judicial notice per Ds’ records) including “mother-in-law suite grandfathered in before Warren was a municipality 1957 (sign city hall), same was a “search”, & “seizure” 5/1/20. “right to sell and occupy one’s residential home in Michigan is not merely a ‘government benefit’, but rather, it is an extension of one’s private property rights—rights recognized by the Michigan Constitution & Mich..

Supreme court as ‘fundamental’”including curtilage. (citation omitted). Ex 5, ECF79-2 PageID.1282 depop 22 ln 11+ Q: ..so the cars on the Hudson property, those belong to Ms. Nelson, correct? A. Exactly (ln 15+) Q. So did she have permission to store the cars on the property? A. ..she was a renter there, and..part of renting gave her access to both lots..they’re side by side lots (p 24 ln 22-25) A. Well in a conspiracy you need one overt act. So the cars were towed..that’s the overt act..I know it’s fairly easy to get titles for cars to auction them off (p 25 ln 4+) ..there’s an implicit agreement that we’re going to tow these cars and we’re going to auction them off..the covid is jumping off, so it looks like a conspiracy to me..” Ex 7 7-24-23 depo PN pg 10 ln 14 Q. So..Mr. Thrower purchased four cars and put them in your name? A. He told me to buy them.. (p 33 ln 16) A: I never received a notice”, (p 46 ln 8+) A: ..they just towed the cars,...should not of done that, period, that’s it..they were plated, titled, and all that so they shouldn’t have been touched, period”. PN stating 4, 14th Amendment claim under oath. *Knick v. Township of Scott*, 588 US ____ (2019) The issue in Knick is how the courts treat a “taking” of private property for public benefit. 5th USCA says: “nor shall private property be taken for public use, without just compensation”. Since 4th Amendment law is well settled, the Ds’ cannot claim immunity from their actions. As noted supra, (D) Scott-Supervisor admitted in Interrogatory 7 Ex 1 to being present 5/1/20 when cars towed, ID’d Doe Gauss #22 wrote ticket 5/1/20, ECF 71

Ex 34, 46, See *Fizer v. City of Warren* Aug 25, 2021 2:19-CV-11193-TGB-MKM 08-25-2021 to show how courts show 1) if law is well settled not immune (D) Scott, ID' d-Doe-Gauss pending amended complaint 2) shows "pattern, custom & practice" of city Warren (Ds') violating USCA rights. Per Ex 1 (D) Scott Admission, Ex "7) Where you present 5/1/20 @ 7568 Hudson Ave .. when ..4 vehicles were towed. Response: Yes, 1) Admit that there was privacy fence on the adjacent lot to the 7568 Hudson Ave Warren MI ..5/1/20 when you towed the cars A...admitted that there is a fence on the property adjacent to 7568 Hudson Ave". The 4th USCA has cited "privacy fence", delineating "curtilage" as observable from property porch-within scope of 4th USCA. Per Interrogatories Ex 4, 9, 10 D's Bruce Hertz, Dennis Hertz, Randy Sullivan (misled as Hertz) admit to towing cars from 7568 Hudson Ave per facts in complaint being called city Ds'. Per ECF 74 proffered amended complaint Ex 1=lease of PT, ECF 74 Ex4 shows 1 car on drive 5/1/20 & no personal property as ECF 71 Ex 32, 33 shows PT "personal property" removed by Ds' per facts of complaint. Incidentally, ECF 74 Ex 3 p 1-4 Ds STI, Hertz Bros Invoices show who towed cars 2-(D) Randy (Sullivan), 1 D-Bruce Hertz, 1 D Dennis Hertz, & all show "falsified address" of 7528 Hudson Ave, and show "Caller name: Code enforcement, Warren police dept & Incident #'s which is proof Warren Police were involved-in spite of Ds' denials. Per PT aff't Warren PD Van Dyke substation officer said "if incident report is on paperwork-Warren police

are involved & ran incident #-& said yes, this comes back to us". These Invoices, all cars owned by PN & 2 showing 7568 Hudson Ave address. Per ECF 71 Ex 36 PT affidavit, tenant Branson said "Warren police were involved". "Unreasonable searches are unlawful, .. rule, a warrantless search of a home or business is presumptively unreasonable" *Kentucky v King*, 563 US 452, 459, "administrative scheme must give property owner chance to challenge a warrantless search request before being sanctioned for refusing entry." Ibid. "Otherwise, without the opportunity for precompliance review, there exists an 'intolerable risk' that searches authorized by an ordinance will exceed statutory limits or be used as pretext to harass individuals" *Patel*, 135 SCt @ 2452-53. *MS Rentals, LLC v. City of Detroit, EDMI*. Ds' falsified address 4 vehicles were towed from as concealment-to show conspiracy, police refused to allow (Ps) to file a police report towing & falsification of address on paperwork to meet statutory definition of MI Abandoned vehicle. (Ps) allege "custom and policy" perpetrated by (Ds') Dwyer, Fouts, Michaels, Scott policymakers. *Monell v. Department of Soc Serv New York*, infra which created a narrow pathway for civil rights plaintiffs to seek money damages against a city. *Pembaur v Cincinnati*, infra "Monell reasoned that recovery from a municipality is limited to acts that are, .. acts 'of .. municipality' - that is, acts which .. municipality has officially sanctioned or ordered.." Supreme Court has defined 4.. avenues by which a plaintiff can allege unconstitutional

actions are “of the municipality.” 1st (P) may allege that .. entity has an unconstitutional policy. These policies may be written or unwritten, so long as they can properly be attributed to a “policymaker.” Ps’ allege per filings and facts “entity (D) Warren has an unconstitutional policy” &/or towing cars for blight, abandoned. “policymakers are .. elected officials or those defined as policymakers by state law. This avenue also provides a standard of causation: if a subordinate employee is the party responsible for the deprivation of *rights*, the local entity may only be responsible if a certain policy was a “moving force” behind their action. . 2nd a local entity may be liable under § 1983 for unconstitutional customs and practices. This avenue can be advantageous to a civil rights plaintiff when no policymaker can be identified. ... 3) if a policymaker delegates .. authority to a subordinate employee or explicitly approves of unconstitutional actions, the act can be said to be “of the municipality” by adoption. 4) civil rights plaintiff may allege deliberate indifference. This avenue applies to single-incident-type injustices and concerns the city or county’s failure to hire, train, or supervise its employees. Deliberate indifference liability attaches when policymakers of the local entity are aware of a very large risk and grossly neglect to address it. Blatantly unconstitutional policies are rarely authorized by city councils .. admissible evidence proving policymaker authorization or adoption of subordinate employee’s unconstitutional action is often non-existent. Ps’ aver (Ds’) Dwyer, Fouts

alleges=final policymaker acted under color of state law; 2) acts of (D) Dwyer, Fouts final policymaker deprived (Ps') rights under USCA. 3) (D) Dwyer, Fouts, Michaels, Scott final policymaker had final policymaking authority from defendant City Warren concerning these acts 4. when (Ds') Dwyer, Fouts, Michaels, final policymaker engaged in these acts, he was acting as a final policymaker for (D) city Warren; and acts (Ds') Dwyer, Fouts, Michaels, final policymaker caused the deprivation of plaintiff's rights; that is, the (Ds' Dwyer, Fouts, Michaels final policymaker's acts.. so closely related to the deprivation of the plaintiff's rights as to be moving force that caused ultimate injury. A person acts "under color of state law" when the person acts or purports to act in the performance of official duties under any state, county, or municipal law, ordinance or regulation. Monell liability is based on the acts of a final policymaker. For other bases of *Monell* liability, *Unlawful Official Policy, Practice, or Custom... Based on a Policy that Fails to Prevent Violations of Law or a Policy of Failure to Train Monell v. Dep't of Soc. Servs. of N.Y.*, 436 US 658, 691. Such liability may attach when official or employee who caused a constitutional violation was acting as a "final policymaker" *Lytle v. Carl*, 382 F.3d 978, 981, *St Louis v Praprotnik*, 485 U.S. 112, 123 ..determination is made on a function-by-function approach analyzed under the state organizational structure. A "policy" is a deliberate choice to follow a course of action made from among various alternatives by the official or

officials responsible for establishing final policy with respect to the subject matter in question...even if constitutional violation occurs only once. *Pembaur v Cincinnati*.

475 US 469, 478 & n.6 . “municipality is also liable if a policymaking official fully delegates his.. discretionary authority to a subordinate, and ..subordinate uses that discretion (I.e. (D) Scott, Gauss #22). *St Louis v Praprotnik*, Id. “official may be found .. delegated final policymaking authority when the official’s discretionary decision is unconstrained by policies not of that official’s making and

unreviewable by.. municipality’s authorized policymakers”. ECF 71 Ex 15

10/12/22 Detroit free press “This video is sickening, ...Detroit teen punched,

kicked by Warren Police” Warren police kick and punch black youth shows

pattern. Either (Ds’) Dwyer, Fouts, Michaels “deliberate indifference” of his

mayor, police commissioner post, city attorney or condones this illegal behavior.

Warren police chief (D) Dwyer Mission statement ECF 71 Ex 18 pg. 3/8

“Professional All members of the Department will conduct ..*In a manner that is consistent with professional standards for performance, both on and off duty.*

These standards include adherence to our mission (4/8) and other core values. We perform our roles ethically and with integrity as we represent the Warren Police

Department, regardless of the circumstances” (Ds’) Dwyer, Fouts, Michaels, Scott,

police involved in (P) facts does not comply with warren police department

mission statement. (Ps’) avers (Ds) Dwyer, Fouts puts same on paper, but have

“custom and policy” of letting his officers break the law. (Ps’) were never served notice of any infraction in re cars PN avers she was never served NOTICE any alleged car infraction & Ds’ have never alleged notice to PN, being a renter @ 7568 Hudson - a listed multi unit structure w city -any alleged notice was defective under 4, 5, 14th USCA=did not include (PN) name owner of 4 vehicles 5/1/20. , ECF 71 Ex 2 PN lease. ECF 71 Ex 36 Aff’t (PT) ECF 71 WHO (World Health Organization) declared COVID 19 a Worldwide Pandemic 2/20 per facts-accepted as true Ps’ allege Ds’ caused a “state created danger” SCD re covid ECF 74 8TH Cause of action proffered amended complaint restating ECF 6, per facts rewritten herein-adding (D) Gauss #22 who wrote 5/1/20 ticket ECF 71 Ex 34, 46 , “Ds’ violated Ps’ Constitutional rights. .USCA 5, 14th Amendment, 42 USC 1983, 1985, 1988 ..*Kallstrom v Columbus*, 136 F3d 1055, 1060 CA6, 42 USC Sec 1983 “state,,may not cause or greatly increase..risk of harm..citizens without due process of law” 1066. Ps’ claim (D) Scott, Ghanam, Cummins, Gauss, policymakers Dwyer, Fouts, Michaels, city Warren, STI, Hertz Bros acting in conspiracy, concert “state created danger” theory of liability..state..increased ..risk..individual will be exposed to ..acts of(danger)”..show 1) affirmative act by the state (tow cars during covid pandemic) increased risk.. (Ps’) would be exposed to..2) special danger (covid) .. state knew or should have known that it’s actions specifically endangered Ps’ *Jones v Reynolds*, 438 F3d 685, 690 *Harlow*, 457 US 818 “court

stated that an ‘individual’s interest in preserving her life is one of constitutional dimension” *Kallstrom Id @ 1063*. Per depo Ex 5: PT manager properties since 2012, dealt with city, Scott, Cummins Ex 6, 2015 Invoice-when Warren Code was unconstitutional, PN paying inspection fee-corroborates her testimony ECF79-2 PageId.1281 p 18 ln 19+ Thrower A: ..First of all, March 4th, the mayor, ..governor and World Health Organization at the end of February, they had already declared COVID a pandemic,...in February she (PN) was up in Michigan, and I sent her down with cash to handle this. Q. You’re pointing at Ms. Nelson? (p 19) A. Ms. Nelson WITNESS: And didn’t you tell me—she said the place was locked up, it was like a ghost town. Didn’t you say that to me? (ln 9+) Ms. Nelson: Yes. Correct. (ln 18+) A. This hearing you’re holding hearings when there’s a worldwide pandemic going on and I’m in Ohio getting treated for prostate cancer?”. The Mar 4 20 hearing was for the Ds’ Ex 8 1/22/20, annexed hereto as Ex 8, ticket for “failure to certify”, which if PN could have paid the inspection fee would not have taken place, but city hall was “locked up like a ghost town”, Id. The ticket had 0 to do w blight or this case. Ex 3 PT paying \$3950 fines shows.. Ds’ knew PT was then 64 yrs. old, at “at risk” individual for covid. Per running plates car owner PN-then 52 yrs. old “at risk” person, cancer survivor meets “at risk” criteria, covid emergency orders in effect per facts same rewritten herein. If not “egg-shell” liability theory applies. Ps’ allege Ds’ knew, or should have known

that Ds' Fouts, Dwyer, Scott, Gauss actions towing the cars would cause Ps' to exit self-isolation to retrieve same. Per ECF 71 Ex 3 "Governor Executive order 2020-21 Temporary requirement to *suspend activities that are not necessary to sustain or protect life...to suppress the spread of covid-19, to prevent state's health care system from being overwhelmed, ... to avoid needless deaths it is necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible* 1 This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life." The gov orders are clear. (D) Fouts entered identical orders in spite of Ds' STI, Hertz Bros answers to interrogatories to contrary common sense dictate that PN could not have retrieved 4 cars herself without PT assistance. Per depo-PN stated PT "provided the monies for the cars" showing PT had an interest in same in spite being in PN name. ECF 71 Ex 31 6-1-14 Lease PT, for 7568 Hudson Ave. Again, Ds' Fouts, Dwyer, Scott, Gauss knew or should have known Governors, (D) Mayor Fouts-identical orders were in effect, knew or should have known not to tow cars No. 17-1907 *Smith, et al. v. City of Detroit*, et al. -6- inferences from that evidence in the light most favorable to the non-moving party." *Id. Ciminillo v. Streicher*, 434 F3d 461, 464 (6CA).

Government officials are immune ..civil liability under 42 USC §1983, provided "their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Pearson v. Callahan*, 555 U.S.

223, 231 “To determine whether a government official is entitled to qualified immunity, we analyze (a) whether the facts, when taken in the light most favorable to the party asserting the injury, show the officer’s “A constitutional violation is clearly established when “.. contours of the right ..sufficiently clear .. that a reasonable official would understand that what he is doing violates that right.”. ECF71 Ex 19, 37th District Court Tsp PageId 1087, p 3 Tsp Court: Say your name..SCOTT: Robert Scott, Director of Property Maintenance, City of Warren” PageId.1088(ln 1-2) (D) “Scott: Because the state law will not allow them to evict (renter Branson) out..”. Yet, (D) Scott, per Ex 1 interrogatory 7, admits to being @ 7568 property when cars towed 5/1/20 & amended (D) Gauss-works under (D) Supervisor Scott writing 5/1/20 ECF 71 Ex 34, 46 ticket during covid-towing cars acting in conspiracy, concert=“1 overt act” to violate the law with private (D) STI tow co. (D) Hertz Bros concealing same by falsifying address-2nd overt act, STI, Hertz Bros, Randy Sullivan (Ds’), exposing (D) Scott, proffered (D) Gauss “failure to train”, “deliberate indifference” , unconstitutional policy, *Davis v Brady*, 143 F3d 1021, 1022 (EDMI)6CA), police stopped a drunk driver on the road but did not take him into custody. Instead, the police took.. driver’s keys but left him on a dark, busy highway. The intoxicated driver collided.. vehicle and .. injured. court found government liable under the SCD doctrine for putting the driver in danger.. it has consistently .. been the rule that a constitutional claim arises when the injury

occurred as a result of the state's deliberate indifference to the risk of such an injury. *Farmer v Brennan*, 511 US 825, 834. Ps' per depo upon learning cars were gone decided to protect their interest ECF 71 Ex 63 p 1-4 invoices, Ds' STI, Able Towing, Hertz Bros state actors per admissions Ex 4, 9, 10 before sold thru falsified address as "7528 Hudson", paperwork as "abandoned", Ex 63 Id., p 1-4. Although Ps' were not injured, they incurred expenses and were exposed to injury & had to violate law-to retrieve cars. Ps' exiting self-isolation, being "at risk", travel from Cuyahoga County, OH, low covid county 5/2/20, to Macomb County - high covid county to retrieve vehicles. Towed because policymakers (D) Fouts, Dwyer & city employees Scott, Gauss, et al. PT was being treated 5x week prostate cancer ECF 71 Ex 35 p 1-3, PT had personal property taken, had an interest in 4 vehicles per depo & PN could not retrieve cars herself-& 5/1/20 Ps' did not know what happened to cars. Rather than "protect the lives" of Ps', Ps' were exposed to covid rate 7x ECF 71 Ex 5 p 1-2 higher rate Macomb County ECF 71 Ex 6, 16x death rate comparing Cuyahoga County & exponentially more risk of death/exposure since Ps' were self isolating. PN then 52-ECF 71 Ex 41 license was told by E Mich University Dr ECF71 Ex 4 p 2, Ex 11 aff't "stay in OH-things are crazy in MI due to covid". D' failed to follow covid emergency guidelines set forth by gov & (Ds) Fouts, Dwyer. Per pattern city (D) Warren, *Howett v Warren*, 17-cv-11260, p 2/51 "Howlett alleges ..harassment occurred ..due to 'customs, practices and policies ..exist

in ..city of Warren and its municipal departments..1991 ..United States again sued ..city of Warren ..failed to correct the issue...", to show "customs, practices and policies". See (D) Fouts Press Release 2/26/20 ECF 71 Ex 23, "We have implemented a public health management decision making training for all police ...covid (p3) residents can feel at ease knowing their health and well being..number one priority..Commissioner Dwyer..ensure your safety", policymaker's (D) Fouts, Dwyer, ECF 71 Ex Q p3 Duties of Mayor Fouts, "enforcement of ordinances..". (D) Fouts had issued identical order as gov-per the record in re covid, yet deliberate indifference, unconstitutional policy, failure to train had municipal Ds' Scott, Gauss, Doe police towing cars off private property 5/1/20.

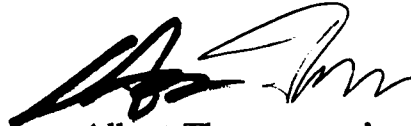
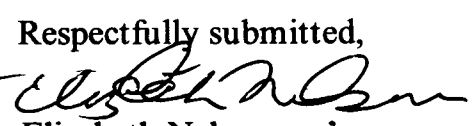
ECF 71 Ex 22, Cuyahoga County Exec "Summer 2020..covid crisis..worst crisis we ,have lived through", yet Ds' Scott, Gauss, STI, Hertz Bros are out towing cars.

Monroe v Pape, 365 US 167, 174-76 "non state actors can..engage in conduct 'under color of state law'..subject to liability under..Sec 1983 where they 'acted jointly' or conspire with state..officials", as set forth in complaint. Per Invoices, Admissions, STI, Hertz Bros towed the cars after being called by (D) City Warren officials. 2:21-cv-10446 ECF1 PageId18 filed 2/26/21, p 18/26 "Warren to implement proper training for Warren Police ..city workers....Warren historically failed to train.."

Moldowan v Warren, 157 F3d 351, 393-4.

Wherefore, per facts, accepted as true, Ps' are tenants 7568 Hudson Ave Warren MI 48091 5/1/20. (Ds') Scott, STI, Hertz Bros, Randy Sullivan towed 4 cars without any notice, without any ticket written for same, took personal property-when Gov, (D) Mayor had issued emergency covid orders, "harbor in place". Ps' upon learning cars were missing had to exit self-isolation, travel to Warren MI a then higher covid infection county, enter 8 ft x 8 ft waiting room-with others ignoring 3x5" sign, again exposing to covid to retrieve cars. The address the cars were taken from was falsified on all 4 invoices to 7268 Hudson Ave. Ps' tried to file a police report 7/21 in re falsification of cars and towing of same which was refused by Doe Warren police. Ps' allege in the least 4th, 5, 14th Amendment US Constitution were violated. The 4th Amendment is well settled law, the Ds' tow company acted in concert with state officials, at the minimum (D) Scott, who admits to being at the property 5/1/20, proffered amended complaint (D) Gauss who wrote ticket 5/1/20 "occupying uncertified structure" to tenant Branson, who (D) Scott-being present, admitted in eviction hearing "could not be evicted because of state law (covid)". The falsified address, itself a crime, shows efforts to conceal facts, coverup by (Ds') STI, Hertz Bros, conspiracy for illegal towing of cars. Ps' had a right to file police report to report a crime of the "falsified address". Ds' knew or should have known the towing of cars would force "at risk" Ps' to exit self-isolation to retrieve same creating a SCD (state created danger) situation, with covid pandemic raging. Hence, Ps'

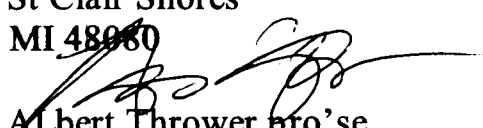
pray that Ds' Scott immunity claim be denied, the amended complaint allow to proceed, and set the matter for trial.

 Respectfully submitted,
Albert Thrower pro'se  Elizabeth Nelson pro'se


CERTIFICATE OF SERVICE

A copy of this brief has been served on all parties this 9/12/23 email and USPS post

MEAD Law
PO Box 806042
St Clair Shores
MI 48080


ALbert Thrower pro'se

Rachel Selina
255 E Brown St #320
Birmingham, MI 48009


Elizabeth Nelson pro'se

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- Ds' Exhibit 8-ticket 1/22/20 -failure to certify-not blight Ex 8
- Interrogatories Dennis Hertz-admitted towed 1 car Ex 9
- Interrogatories Randy Sullivan-admitted towed 2 cars Ex 10
- Affidavit of Elizabeth Nelson Ex 11

EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH NELSON, and
ALBERT THROWER,

Plaintiffs,

vs.

SERVICE TOWING INC., ABLE
TOWING LLC, EDWARD D.
HERTZ, President, DENNIS HERTZ,
Treasurer, BRUCE HERTZ,
Secretary, SANDRA HERTZ, Resident Agent RANDY
(JOHN DOE) Driver, Truck 210, BRUCE
(JOHN DOE) Driver, Truck 210, DENNIS
(JOHN DOE) Driver, Truck 162, JOHN
DOES 1-3, City of Warren Property and
Maintenance Employees, 2 ZONING
DEPARTMENT EMPLOYEES, City of
Warren, JOHN DOES 1-3, JOHN DOES
1-4, Warren Police Department Policemen,
CITY OF WARREN, JOHN DOE, Warren
Chief of Police, JAMES FOUTS, Mayor,
ROBERT SCOTT, Supervisor: Property and
Maintenance Division,

Defendants.

ELIZABETH NELSON

Plaintiff, In Pro Se

P.O. Box 1422

Warren, MI 48090

313-319-7370

ALBERT THROWER

Plaintiff, In Pro Se

P.O. Box 6702

Cleveland, OH 44101

216-856-6626

BERRY MOORMAN P.C.

Attorneys for Named City of Warren Defendants

Mark E. Stractmans (P29158)

Rachel C. Selina (P85430)

255 E. Brown St., Suite 320

Birmingham, MI 48009

(248) 645-9680

mstractmans@berrymoorman.com

rselina@berrymoorman.com

LAW OFFICES OF JENNIFER E. MEAD

Attorneys for towing Defendants
Jennifer E. Mead (P57106)
P.O. Box 806042
Saint Clair Shores, MI 48080-6042
(313) 485-1250
jmeadjen@hotmail.com

**DEFENDANT ROBERT SCOTT'S OBJECTIONS AND RESPONSES TO
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS AND
INTERROGATORIES AND PRODUCTION OF DOCUMENTS TO
DEFENDANT ROBERT SCOTT**

GENERAL OBJECTIONS

Defendant, Robert Scott, asserts the foregoing general objections as if fully set forth and stated in each response to Plaintiffs' First Set of Requests for Admissions and Interrogatories and Production of Documents to Robert Scott, whether or not such Objections are actually set forth therein. Any and all responses are made subject to and without waiving these objections.

1. Defendant objects to the Requests, as they are neither relevant nor likely to lead to the discovery of relevant evidence.
2. Defendant objects to the Requests to the extent that they are duplicative.
3. Defendant objects to the Requests as they are overly broad.
4. Defendant objects to the Requests to the extent that they are vague, not specific, compound in nature and ambiguous.
5. Defendant objects to the Requests to the extent that they seek information outside the scope of discovery.

(P0422226-v1)

(P0422226-v1)

Ex 7

6. Defendant objects to the Requests to the extent that they seek to impose obligations over and above those proscribed in the Federal Rules of Civil Procedure.

7. Defendant objects to the Requests to the extent that they seek information solely in the possession and control of third parties.

8. Defendant objects to the Requests to the extent that they seek information that is more or equally available to Plaintiffs as it is to Defendants.

9. Defendant reserve the right to add to or amend its responses to the Requests if additional information becomes known or for any other reason.

REQUESTS FOR ADMISSIONS

1. Admit that there was a privacy fence on the adjacent lot to the 7568 Hudson Ave Warren MI address 5/1/20 when you towed the 4 cars.

Response: Defendant objects to this request because "privacy fence" is not defined and because Defendant Scott did not tow cars from the property. Without waving these objections, it is admitted only that there is a fence on the property adjacent to 7568 Hudson Ave.

2. Admit that all 4 vehicles towed from the 7568 Hudson Ave Warren MI 48091 address and the adjacent lot had Michigan license plates attached to them.

Response: Defendant neither objects nor denies this allegation and has not been able to obtain an answer to this question despite reasonable efforts to do so.

3. ADMIT/DENY that a vehicle owner under Michigan law cannot obtain license plates without showing proof of full coverage insurance.

Response: Defendant objects as to foundation and because the request calls for a legal conclusion.

4. Admit that ALBERT THROWER recovered the 4 vehicles that were towed from 7568 Hudson Ave Warren MI 48091, 5/2/20, 5/3/20.

Response: Admit.

5. ADMIT/DENY that ELIZABETH NESLON would need a "helper" to retrieve 4 vehicles that were towed by SERVICE TOWING INC., ABLE

(00422226v4)

TOWING LLC and or Hertz Bros defendants 5/1/20 FROM 7568 Hudson Ave Warren MI 48091.

Response: Defendant objects as to foundation, because "helper" is not defined, and because Robert Scott has no way to know of Ms. Nelson's needs.

6. ADMIT/DENY that two of the vehicles towed 5/1/20 from 7568 Hudson Ave Warren MI 48091 were on the concrete drive.

Response: Defendant neither objects nor denies this allegation and has not been able to obtain an answer to this question despite reasonable efforts to do so.

7. ADMIT/DENY two of the vehicles were taken from behind a privacy fence.

Response: Defendant objects to this request because "privacy fence" is not defined and because Defendant Scott did not tow cars from the property. Without waving these objections, it is admitted only that there is a fence on the property adjacent to 7568 Hudson Ave.

8. Admit /Deny that you entered the property 7568 Hudson Ave Warren MI 48091 5/1/20 and towed 4 vehicles without ever seeing a search warrant

Response: Deny

9. Admit / Deny that there is a "privacy fence" on the adjacent lot to 7568 Hudson Ave Warren MI 48091 where 2 of the vehicles were towed from.

Response: This request is repetitive. See response to RFA 1 and 7 above.

10. Admit/Deny that vehicles behind a "privacy fence" would satisfy the 4th Amendment United States Constitution definition of "curtilage" as defined in same.

Response: Defendant objects as to foundation and because it calls for a legal conclusion. Defendant also notes that the definition of "curtilage" is not defined in the 4th Amendment but has been determined through 4th Amendment case law and jurisprudence.

INTERROGATORIES

1. Who contacted Service Towing, Inc., Able Towing in re the towing of the 4 vehicles towed from 7568 Hudson Ave. Warren, MI 48091 and the adjacent lot 5/1/2020?

Response: *Benjamin Vignoski - Area 33 Inspector.*

(00422226v4)

Ex 1 p 2

2. What date and time where you contacted in re the towing of the 4 vehicles from the 7568 Hudson Ave. address and the adjacent lot- para 1

Response: I don't know.

3. Is there a record of the call?

Response: I don't know.

4. If there is a record of the call, please produce same.

Response: Defendant objects to this interrogatory as it improperly seeks the production of documents. However, without waiving objections, Defendant notes: I do not have a copy of the call or access to a copy of the call if such a recording exists.

5. When Warren Property and Maintenance tows a vehicle from private property in the city of Warren MI, do you make a record of it? YES/NO

Response: Service Towing makes a record of it and then the City retains those records.

6. If you make a record of it (5-rewritten herein) produce same

Response: Defendant objects to this interrogatory as it improperly seeks the production of documents. However, without waiving objections, Defendant notes: You are already in possession of the records we have.

7. Where you present 5/1/20 @ 7568 Hudson Ave. Warren MI and the adjacent lot when the 4 vehicles were towed Yes/No

Response: Yes.

8. If No- to para 7, state how you came to tow the 4 vehicles in para one address 7568 Hudson Ave. Warren MI 48091

Response: N/A, answered yes.

9. Were the Warren police present for the towing of the 4 vehicles from 7568 Hudson Ave Warren MI 48091/5/1/20 and the adjacent lot. YES/NO

Response: No.

10. If the Warren police were present 5/1/20 @ 7568 Hudson Ave. Warren MI 48091 for the towing of the 4 cars, do you know any of the Warren Police names? YES/NO

Response: N/A

(0042228-v1)

Ex 1 p 3

11. If the answer is YES for question 10 - write down all the Warren Police Officers names

Response: N/A

12. Is it true that the Warren Substation Van Dyke Blvd and Republic Ave cross street responded to towing requests at 7568 Hudson Ave. Warren MI 5/1/20

Response: No.

13. Was Captain William Reichling present for the towing of the 4 vehicles 5/1/20 from 7568 Hudson Ave Warren MI 48091 address and the adjacent lot

Response: No.

14. Are you aware that curtilage begins behind the privacy fence and the area observable from the 7568 Hudson Ave Warren MI 48091 porch?

Response: Defendant objects because this interrogatory is irrelevant and improperly calls for a legal conclusion.

15. Admit that there was a privacy fence on the adjacent lot to the 7568 Hudson Ave Warren MI address 5/1/20 when you towed the 4 cars ADMIT/DENY

Response: Defendant objects to this interrogatory because it is repetitive. See RFAs 1, 7, 9.

16. Admit that all 4 vehicles towed from the 7568 Hudson Ave Warren MI 48091 address and the adjacent lot had Michigan license plates attached to them ADMIT/DENY

Response: Defendant objects to this interrogatory because it is repetitive. See RFA 2.

17. ADMIT/DENY that a vehicle owner under Michigan law cannot obtain license plates without showing proof of full coverage insurance

Response: Defendant objects to this interrogatory because it is repetitive. See RFA 3.

18. To your knowledge did the police, if you admit that they were present 5/1/20 @ 7568 Hudson Ave Warren MI address & adjacent lot run the plates or the vin #s of the 4 vehicles towed YES/NO

Response: I don't know.

(0042228-v1)

19. Are you aware that the license plates were issued to the 4 vehicles towed 5/120 from the 7568 Hudson Ave address Warren MI 48091 and adjacent lot were in the name of Elizabeth Nelson? YES/NO

Response: No.

20. Are you vaccinated for COVID 19? Yes/No

Response: Defendant objects because this interrogatory is irrelevant.

21. If you are vaccinated to COVID 19 how many booster shots did you receive?

Response: Defendant objects because this interrogatory is irrelevant.

22. Are you aware that the WHO = World Health Organization declared COVID 19 a world pandemic on or about 2/24/20? YES/NO

Response: Defendant objects because this interrogatory is irrelevant and the information is just as readily available to Plaintiffs as it is to Defendant.

23. Are you aware that on 5/120 when the 4 cars were towed, Gretchen Whitmore had issued emergency orders that were in effect that dictated who could be out in public? YES/NO

Response: Defendant objects because this interrogatory is irrelevant and the information is just as readily available to Plaintiffs as it is to Defendant.

As to objections:

Respectfully submitted,

BERRY MOORMAN, P.C.

By: /s/ Rachel C. Selina
RACHEL C. SELINA (P85430)
Attorney for Defendants

JURAT

The foregoing responses are true to the best of my information, knowledge, and belief. I understand my duty to reasonably supplement all responses throughout litigation.

(00422226.v1)

Robert Scott
Robert Scott

STATE OF MICHIGAN)
) ss.
COUNTY OF MACOMB)

On this 5th day of September, 2023, before me a Notary Public in and for said County personally appeared Robert Scott, a Michigan individual, to me known to be the person who executed the foregoing instrument.



Notary Public, Nicole M. Travers
County, Macomb
My Commission Expires: 4/5/2025

(00422226.v1)

Ex 1 P 4

State of Michigan
 37th District Court
 6300 Common Rd.
 Warren, MI 48093
 586-574-4900

37 02B LC 20210915154209

ALBERT THROWER		
Y028064W	JFNTC(\$10)	10.00
Y028064W	PROP MAINT	740.00
Y028064W	CASE TOTAL	750.00
Y028064W	BALNCE DUE	250.00

ALBERT THROWER		
Y028064A	JFNTC(\$10)	10.00
Y028064A	PROP MAINT	740.00
Y028064A	CASE TOTAL	750.00
Y028064A	BALNCE DUE	250.00

ALBERT THROWER		
Y028064B	JFNTC(\$10)	10.00
Y028064B	PROP MAINT	740.00
Y028064B	CASE TOTAL	750.00
Y028064B	BALNCE DUE	250.00

ALBERT THROWER		
Y028065W	JFNTC(\$10)	10.00
Y028065W	PROP MAINT	190.00
Y028065W	CASE TOTAL	200.00
Y028065W	BALNCE DUE	0.00

ALBERT THRCWER		
Y028065A	JFNTC(\$10)	10.00
Y028065A	PROP MAINT	740.00
Y028065A	CASE TOTAL	750.00
Y028065A	BALNCE DUE	250.00

ALBERT THROWER		
Y028065B	JFNTC(\$10)	10.00
Y028065B	PROP MAINT	740.00
Y028065B	CASE TOTAL	750.00
Y028065B	BALNCE DUE	250.00

TOTAL	3,950.00
-------	----------

CASH	3,950.00
------	----------

AMOUNT TENDERED	3,950.00
-----------------	----------

CHANGE DUE	0.00
------------	------

EX ~~A~~ 2



RENTAL AGREEMENT

THIS IS A LEGALLY BINDING CONTRACT.
IF NOT UNDERSTOOD, CONSULT AN ATTORNEY.

The Tenant(s) known as Albert Thrower hereby agree to rent the dwelling located at 7568 Hudson A

* Any Available 1-4 Apartment Warren MI
The premises are to be occupied by the above named tenants only. Tenant may not sublet premises. 48091

TERM The term shall commence on 6-1-14 at \$ 100 per month payable on the 1 of each month in full.

LATE FEES In the event rent is not paid by the NA (5th) day after due date, Tenant agrees to pay a late charge of \$

UTILITIES Owner Tenant shall be responsible for the payment of the following utilities: water, electric, gas, heating fuel, Telephone.

APPLIANCES Appliances provided in this rental are: stove, refrigerator, dishwasher, washing machine, dryer, air conditioner(s), .
Repairs will be born by said Tenants if damage is due to negligence of Tenants.

SECURITY Amount of security deposit is \$. Security shall be held by Landlord until the time said Tenants have vacated the premises and Landlord has inspected it for damages. Tenant shall not have the right to apply Security Deposit in payment of any rent. Security deposits must be raised proportionately with rent increases.

INSURANCE Tenant is responsible for liability/fire insurance coverage on premises. Tenant agrees to obtain a "Renter's Insurance" policy and to provide Owner or agent with a copy of policy within seven (7) days of lease execution.

NOTICES Should tenant decide to vacate the premises, a 10 day written notice to the landlord is required. Should landlord decide to have tenants vacated, a 10 day written notice is required. Tenant agrees to allow premises to be shown at any and all reasonable times for re-rental.

REAL ESTATE COMMISSION (If applicable) In the event a commission was earned by a real estate broker, Tenant shall not take possession of the premises unless all fees due broker are paid in full as agreed. Commission is payable when this lease is signed by the Tenant(s). It is solely for locating the rental for the Tenant and is not refundable under any circumstances regardless of any disputes or conditions between the Landlord and Tenant before or after occupancy is taken.

ACKNOWLEDGMENT Tenants hereby acknowledge that they have read, understand and agree to all parts of this document, and have received a copy.

	AMOUNT RECEIVED	BALANCE DUE
RENT :	<u>100</u>	<u> </u>
SECURITY:	<u> </u>	<u> </u>
BROKER'S FEE:	<u> </u>	<u> </u>

+ Management Duties
* Albert Thrower live in ANY
Available Apartment

THE UNDERSIGNED TENANT(S) ACKNOWLEDGES RECEIPT OF A COPY HEREOF.

DATE: 6-1-14

OWNER/AGENT Steve Anthony
the GREAT MONASTERY
ADDRESS
PHONE

TENANT Albert Thrower
TENANT Albert Thrower
PHONE 216 856-6626
216 254-3883

EX 3

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH NELSON and ALBERT THROWER,

Case No. 2:22-cv-10918
Hon. Matthew F. Leitman

Plaintiffs,

-v-

SERVICE TOWING, INC., *et al.*,
Defendants.

Elizabeth Nelson
P.O. Box 1422
Warren, MI 48090
In Pro Per

Albert Thrower
P.O. Box 602637
Cleveland, OH 44102

Jennifer Mead (P57106)
P.O. Box 806042
St. Clair Shores, MI 48080
(313) 485-1250
Attorney for Service Towing, Inc.
Defendants
meadjenn@hotmail.com

Rachel C. Selina (P85430)
255 E. Brown Street, Ste. 320
Birmingham, MI 48009-6209
(248) 645-9680 rselina@berrymoorman.com

**DEFENDANT BRUCE HERTZ'S
ANSWERS TO PLAINTIFFS' REQUESTS FOR ADMISSIONS**

NOW COMES Defendant BRUCE HERTZ, by and through undersigned counsel,
pursuant to F.R.Civ.P. 36 and hereby responds to Plaintiffs' joint Requests For Admissions as
follows:

17. Admit that there was a privacy fence on the adjacent lot to the 7568 Hudson Ave
Warren MI address 5/1/20 when you towed the 4 cars. ADMIT/DENY

RESPONSE: Defendant Bruce Hertz cannot truthfully admit or deny this request as after a
reasonable inquiry and the information defendant knows or can readily obtain is insufficient to

EX 4

enable defendant to admit or deny. As part of the inquiry, defendant reviewed plaintiff's Exhibit N, which is plaintiff's picture of a wooden fence but plaintiff's photo is so blurred and light that one cannot see precisely where the wooden fence is (or on which property it is located).

18. Admit that all 4 vehicles towed from the 7568 Hudson Ave Warren MI 48091 address and the adjacent lot had Michigan license plates attached to them ADMIT/DENY

RESPONSE: Admit.

19. ADMIT/DENY that a vehicle owner under Michigan law cannot obtain license plates without showing proof of full coverage insurance

RESPONSE: Deny as a vehicle owner can obtain license plates by showing proof of no fault, which is less coverage than "full coverage insurance".

44. Admit that ALBERT THROWER recovered 4 vehicles that were towed from 7568 Hudson Ave Warren MI 48091, 5/2/20, 5/3/20 ADMIT/DENY

RESPONSE: Admit after a review of the towing invoices.

45. Admit that when ALBERT THROWER was in the SERVICE TOWING, INC., ABLE TOWING LLC office 5/2/20 that a black lady entered the office AFTER THROWER ENTERED OFFICE and the black lady was not told to wait outside by you or anyone else working in the office. ADMIT/DENY

RESPONSE: Defendant cannot truthfully admit or deny this request as after a reasonable inquiry, there is no recording or document which supports plaintiff's request. The information known to defendant or that he can readily obtain is insufficient to enable defendant to admit or deny.

EX 4

P 2

71. ADMIT/DENY that ELIZABETH NESLON would need a "helper" to retrieve 4 vehicles that were towed by SERVICE TOWING, INC., ABLE TOWING LLC and or Hertz Bros defendants 5/1/20 FROM 7568 Hudson Ave Warren MI 48091

RESPONSE: Denied, as plaintiff Nelson could travel to Service/Able Towing and redeem the vehicles herself.

91. ADMIT/DENY that two of the vehicles towed 5/1/20 from 7568 Hudson Ave Warren MI 48091 were on the concrete drive. Ex

RESPONSE: Denied, as to the best of defendant's knowledge, information and memory, the vehicles were parked on the grass.

92. ADMIT/DENY two of the vehicles were taken from behind a privacy fence
RESPONSE: Defendant cannot truthfully admit or deny this request as after a reasonable inquiry and the information defendant knows or can readily obtain is insufficient to enable defendant to admit or deny. As part of the inquiry, defendant reviewed plaintiff's Exhibit N, which is plaintiff's picture of a wooden fence but plaintiff's photo is so blurred and light that one cannot see precisely where the wooden fence is (or on which property it is located) in order to refresh his memory as to the location of each vehicle. Defendant's best memory is that each vehicle was parked on the grass and is unable to recall if any vehicle was behind a privacy fence.

94. Admit/Deny that you entered the property 7568 Hudson Ave Warren MI 48091 5/1/20 and towed 4 vehicles without ever seeing a search warrant

RESPONSE: Defendant admits that on 5/1/20 he, on behalf of the company, only towed 1 of the 4 vehicles (and denies that he towed 4 vehicles) and that he did not see a search warrant but in practice and custom, law enforcement does not normally show towing companies search warrants.

Albert Thrower
07/24/2023

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH NELSON and
ALBERT THROWER,

Plaintiffs,

-vs-

Case No. 2:22-cv-10918
Hon. Matthew F. Leitman

SERVICE TOWING INC., ABLE
TOWING LLC, EDWARD D. HERTZ,
President, DENNIS HERTZ,
Treasurer, BRUCE HERTZ,
Secretary, SANDRA HERTZ,
Resident Agent RANDY (JOHN DOE)
Driver, Truck 210, BRUCE
(JOHN DOE) Driver, Truck 210,
DENNIS (JOHN DOE), Trust 162,
JOHN DOES 1-3, City of Warren
Property and Maintenance Employees,
2 ZONING DEPARTMENT EMPLOYEES,
City of Warren, JOHN DOES 1-3,
JOHN DOES 1-4, Warren Police
Department Policemen, CITY OF
WARREN, JOHN DOE, Warren Chief
of Police, JAMES FOUTS, Mayor,
ROBERT SCOTT, Supervisor:
Property and Maintenance
Division,

Defendants.

The Deposition of ALBERT THROWER,
taken before me, Theresa L. Roberts, Certified Shorthand
Reporter (CSR-4870) and Notary Public in and for the County
of Oakland, State of Michigan, at 255 East Brown Street,
Suite 320, Birmingham, Michigan, on Monday, July 24, 2023,
noticed for 10 a.m.

EX 5



hansonreporting.com
313.567.8100

Albert Thrower**07/24/2023**

Page 2

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Page 4

1 APPEARANCES:
 2 In Pro Se: ALBERT THROWER
 3 P.O. Box 6702
 4 Cleveland, Ohio 44101
 5 (216) 856-6626
 6
 7 In Pro Se: ELIZABETH NELSON
 8 P.O. Box 1422
 9 Warren, Michigan 48090
 10 (313) 319-7370
 11 For Defendants BERRY MOORMAN, P.C.
 12 City of Warren: By: Rachel C. Selina, Esq. (P85430)
 13 255 East Brown Street, Suite 320
 14 Birmingham, Michigan 48009
 15 (248) 645-9680
 16 rselina@berrymoorman.com
 17
 18 For Defendants LAW OFFICE OF JENNIFER E. MEAD
 19 Service Towing By: Jennifer E. Mead, Esq. (P57106)
 20 and Able Towing: P.O. Box 806042
 21 Saint Clair Shores, Michigan 48080
 22 (313) 485-1250
 23 meadjenn@hotmail.com
 24
 25 ALSO PRESENT: Ethan Vinson, Esq. (P26608)

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Page 5

1 Birmingham, Michigan
 2 Monday, July 24, 2023
 3 (At about 10:12 a.m.)
 4
 5 **ALBERT THROWER**
 6 after having been first duly sworn to tell the
 7 truth, the whole truth and nothing but the truth,
 8 was examined and testified upon his oath as
 9 follows:
 10 **DIRECT EXAMINATION**
 11 **BY MS. SELINA:**
 12 Q. Can you please state your full legal name for the
 13 record?
 14 **A. Albert Dudley Thrower.**
 15 Q. Okay, Mr. Thrower.
 16 **MS. SELINA:** Let the record reflect this
 17 is the date and time for the deposition of
 18 Albert Thrower taken pursuant to notice and for all
 19 purposes under the Federal Rules of Civil Procedure
 20 and Federal Rules of Evidence.
 21 **BY MS. SELINA:**
 22 Q. Mr. Thrower, my name is Rachel Selina. I represent
 23 the city of Warren defendants in this matter. Have
 24 you ever had your deposition taken before?
 25 **A. Yes.**
 Q. Okay. I am just going to go over a few ground rules
 though. You understand that even though there is
 not a judge present and we're not in court, you're
 still under oath, correct?
A. Correct.
 Q. Okay. And as we mentioned earlier, the court
 reporter is transcribing everything that we're
 saying, so I would appreciate if you'd give a verbal
 response rather than like a head nod or an "uh-huh"
 or something like that. Do you understand?
A. Yes.
 Q. Okay. And along those same lines I just ask that we
 don't interrupt each other. The court reporter
 wants to have a clean record of everything that
 we say. Understand?
A. Yes.
 Q. Okay. In addition, any question that I ask you, if
 you give an answer, I'm going to assume that you
 understand, okay?
A. Okay.
 Q. So if you would like clarification, please just ask
 me and I'll do my best, all right?
A. Okay.
 Q. All right. And if you want to take a break at
 anytime, that's fine, please just let us know. But

Albert Thrower

07/24/2023

Page 6

Pages 6..9

Page 8

1 I just ask that if there is a pending question, you
 2 answer that and then we can take a break, all right?
 3 **A. Okay.**
 4 Q. Okay. I just want to get a little bit of background
 5 information.
 6 **A. This is a sewer guy.**
 7 MS. SELINA: Okay, we can go off the
 8 record.
 9 (Proceedings interrupted)
 10 BY MS. SELINA:
 11 Q. Okay, could you state your date of birth, please?
 12 **A. 4-15-57.**
 13 Q. Okay, and what is your marital status?
 14 **A. Divorced.**
 15 Q. Okay. Do you have any children?
 16 **A. No.**
 17 Q. Where do you live presently?
 18 **A. Cleveland, Ohio.**
 19 Q. Okay, are you from Ohio?
 20 **A. Yes.**
 21 Q. Okay. In the past year have you lived anywhere
 22 else?
 23 **A. Not in the past year.**
 24 Q. Okay. Any other notable places that you've lived in
 25 say the past ten years?

Page 7

1 **A. No.**
 2 Q. Okay. Have you ever been involved in a lawsuit as a
 3 defendant?
 4 **A. As a defendant?**
 5 Q. Yes.
 6 **A. Yes.**
 7 Q. Okay, can you briefly describe those cases?
 8 **A. The one that comes to my mind is a car insurance**
 9 **case, but it was settled out --**
 10 Q. Okay.
 11 **A. -- a couple of months ago. So I was covered with**
 12 **the insurance and they hadn't settled. So the**
 13 **insurance company sued and then they settled it out,**
 14 **the other insurance company.**
 15 Q. All right. Can you describe your educational
 16 background?
 17 **A. I got an MBA in finance.**
 18 Q. From where?
 19 **A. Cleveland State University.**
 20 Q. Okay, anything else?
 21 **A. I passed two parts of the CPA exam.**
 22 Q. Did you attend an undergraduate university?
 23 **A. University of Akron.**
 24 Q. All right. Do you have any medical conditions or
 25 taking any medication that would impact your ability

1 to testify today?
 2 **A. No.**
 3 Q. Nothing that impacts your memory?
 4 **A. No.**
 5 Q. Okay. Can you give a brief history of your
 6 employment?
 7 **A. Yeah, I work for the St. Anthony Monastery.**
 8 **Basically self-employed. As a manager of properties**
 9 **and also self-employed.**
 10 Q. Is that how you presently earn a living?
 11 **A. Yes.**
 12 Q. Okay. And how long have you been doing that?
 13 **A. At least ten years.**
 14 Q. Okay. Can you describe what real property you own
 15 in the city of Warren?
 16 **A. Now I don't own any property.**
 17 Q. You own no property in the city of Warren presently?
 18 **A. Right.**
 19 Q. Okay. What other properties do you own?
 20 **A. I own a couple of properties in Ohio.**
 21 Q. All right. You mentioned St. Anthony of the Great
 22 Orthodox Monastery. Is that what you were
 23 referencing earlier?
 24 **A. Exactly.**
 25 Q. What is that?

Page 9

1 **A. Yeah, that's an Ohio corporation registered to do**
 2 **business in Michigan that -- for the purpose of**
 3 **owning and managing real estate, which they don't do**
 4 **anymore.**
 5 Q. How many members of that corporation?
 6 **A. Under Ohio law they don't have to disclose the**
 7 **shareholders, so I don't know exactly who the**
 8 **shareholders are in all.**
 9 Q. But you're the manager?
 10 **A. Exactly.**
 11 Q. Are you the sole member of the corporation?
 12 **A. No, there's other members.**
 13 Q. Do you know who they are?
 14 **A. No, I don't. Through like selling -- owning --**
 15 **owning stock.**
 16 Q. Okay. And you earned income from rental properties,
 17 correct?
 18 **A. Exactly.**
 19 Q. Is that how you got involved with the 7568 Hudson
 20 property in Warren?
 21 **A. Yes.**
 22 Q. Can I refer to it as the Hudson property; you'll
 23 understand what I'm referencing?
 24 **A. Yes.**
 25 Q. Okay. So you presently do not own that property?

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1 A. Exactly.
 2 Q. Who does own it, do you know?
 3 A. Right now I'm not -- I'm not sure who owns it. It
 4 was sold and that's that.
 5 Q. When was it sold?
 6 A. It closed like January of last year.
 7 Q. 2022?
 8 A. Exactly.
 9 Q. Do you recall who it was sold to?
 10 A. No.
 11 Q. That's right. How long did -- so that property was
 12 owned by St. Anthony the Great Orthodox Monastery?
 13 A. Exactly.
 14 Q. How long was it owned by that entity?
 15 A. Since 2012.
 16 Q. Did you have any licenses to rent the property out?
 17 A. No.
 18 Q. Did you rent the property out?
 19 A. Did I rent the property out? Right, I rented the
 20 property out.
 21 Q. Okay. Who was it rented to?
 22 A. I mean over the years?
 23 Q. Sure.
 24 A. For ten years or what?
 25 Q. How many tenants, if you had to estimate, lived in

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1 the property over the years?
 2 A. Probably ten, ten tenants.
 3 Q. Okay, I won't make you recall all of them. That's
 4 fine. Were you responsible for the upkeep of the
 5 property?
 6 A. Yes.
 7 Q. Okay, in your role through St. Anthony?
 8 A. Yes.
 9 Q. Who was living in the property in 2020?
 10 A. Let's see. Kim and Cheryl Branson, they were on the
 11 second floor, and this -- there was a unit in the
 12 back, and I'm trying to think of the guy's name. I
 13 can't remember his name off the top of my head. And
 14 then there was another fellow that lived in the
 15 front downstairs.
 16 Q. Are there three units in the Hudson property?
 17 A. Well, I call it -- I call it basically four units.
 18 Q. Okay, so three of them were occupied?
 19 A. Exactly.
 20 Q. Was the property posted vacant in 2020?
 21 A. Posted vacant, what, by the city or what?
 22 Q. Yes, by the city.
 23 A. I mean, to my knowledge it most likely was, right,
 24 it was.
 25 Q. Do you know why?

1 A. I mean when -- when I came up here, my understanding
 2 there was a -- I became aware of a certification
 3 process, and so the packet -- the package when it
 4 was purchased, there were other properties involved.
 5 And so those were sold off. Like at that point I
 6 had this lawyer, this Michael Garzoni, which I might
 7 have listed as a witness. And he -- every month I
 8 would go down with probably \$3,000, and that would
 9 make the City happy.
 10 And then this guy in the City told me,
 11 you know, why do you give us this money? Nobody
 12 else pays us this money. Because at that time it
 13 was a civil deal, that's the way it was explained.
 14 So...
 15 Q. Why were you paying the City that money?
 16 A. In fines and trying to keep up with the
 17 certification process on these various properties.
 18 Q. The certification, do you mean to have renters in
 19 the property?
 20 A. Exactly, exactly.
 21 Q. All right. Would you say that you took good care of
 22 the Hudson property while you owned it?
 23 A. Yeah, I mowed the grass and basically did the
 24 upkeep. I mean when it was sold it was sold for
 25 substantially more than it was purchased for. So

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1 the assumption is it was in good shape for it to
 2 have a market value.
 3 Q. It was sold ten years later after you purchased it,
 4 correct?
 5 A. Exactly.
 6 Q. Okay. How often -- you lived in Cleveland at the
 7 time in 2020?
 8 A. Exactly.
 9 Q. How often would you come up to Warren to look at the
 10 Hudson property?
 11 A. Yeah, I would come up quite a bit to mow the grass,
 12 that kind of thing.
 13 Q. Every week, once a month?
 14 A. Sometimes once a month. Sometimes I would live in
 15 the Hudson property.
 16 Q. In the vacant unit?
 17 A. In the va -- my lease allowed me to live in any
 18 vacant unit that was available. So they would --
 19 this one might become vacant, then this one come
 20 vacant.
 21 Q. So you leased from the --
 22 A. Exactly.
 23 Q. -- Monastery. I see.
 24 A. Yes, it was basically a perk of the management deal.
 25 Q. I see. So you don't know the names of anyone else

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1 who's involved with the Monastery?
 2 A. No.
 3 Q. Okay. But there are other people?
 4 A. Right, shareholders.
 5 Q. I see. Did you ever receive any tickets or blight
 6 notices related to the Hudson property?
 7 A. Yes.
 8 Q. How did you receive those?
 9 A. I mean they would most likely be posted on the door.
 10 Q. Okay. And so since you came frequently you would
 11 see them?
 12 A. Right.
 13 Q. Okay. Did you ever receive a notice about blight
 14 before the cars were towed from the property?
 15 A. I mean to me the blight -- the blight is -- to my
 16 knowledge I can't say, oh, I received a blight, you
 17 know. It's like blight. You know, what's blight?
 18 I mean, to my knowledge it was basically just that
 19 the properties needed to be certified, certified.
 20 Q. You understand, though, that you have an obligation
 21 to keep up a property though, correct?
 22 A. Exactly.
 23 Q. Okay. Did you ever attend any hearings when you
 24 would receive notice from the City of Warren?
 25 A. Right. Over the years like I would attend multiple

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1 hearings, a lot by myself and a lot with the lawyer,
 2 Garzoni.
 3 Q. Okay, is Mr. Garzoni an attorney in Michigan, I
 4 assume?
 5 A. Exactly.
 6 Q. Okay. I want to shift gears to, you know, the facts
 7 underlying this lawsuit. They arise from
 8 May 1, 2020 in part; is that correct?
 9 A. Exactly.
 10 Q. So were you present to witness what happened?
 11 A. No.
 12 Q. Okay, how do you know what happened?
 13 A. Well, I was down -- I was down in Ohio and then a
 14 friend of mine he called and said, hey, you know,
 15 oh, you moved your car. So like, he was kind of
 16 surprised because the COVID was jumping off, and all
 17 he was aware of that there were some cars on the
 18 property. And so I told him, you know, I didn't
 19 move them. Like I thought they were stolen,
 20 somebody had stolen them during the COVID.
 21 Q. Why did he describe them as your cars?
 22 A. I mean, because he doesn't -- you know, all he knows
 23 is he drives by the property and the cars are gone.
 24 So he doesn't know whose car they are, whatever,
 25 just that there's cars there and then they're gone.

1 So he's not privy to who the title is or whatever.
 2 The cars are there, the cars are gone, so he gives
 3 me a call.
 4 Q. What's your friend's name?
 5 A. Yeah, his name is Michael Bischoff.
 6 Q. He lives in the city, I assume?
 7 A. Exactly, north of the city.
 8 Q. So everything you testify about what happened on
 9 May 1st is based on what your friend told you?
 10 A. Exactly.
 11 Q. Okay. Can you describe, I guess, your version of
 12 what happened on that day?
 13 A. On what day?
 14 Q. May 1, 2020. I'm sorry.
 15 A. I mean, I was a -- I mean the COVID was jumping off,
 16 so -- and I was in Cleveland getting treated for
 17 prostate cancer five days a week. So obviously,
 18 this call coming in was inconvenient. At that time
 19 the COVID was really jumping off up in the Michigan
 20 area, Detroit area. But I had to look into it.
 21 So I got ahold of Elizabeth Nelson and we
 22 came up to Warren to see what was up. And then I
 23 called the police department to report them stolen
 24 and they're like, hey, wait a minute, blah blah
 25 blah, you know, what address, blah blah blah, and

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1 then they informed me it was -- they were towed.
 2 I think I might have got into town on
 3 Saturday because the prostate cancer treatment
 4 radiation was five days a week. So that left me the
 5 weekends to handle this.
 6 Q. Okay. Before the cars were towed from the Hudson
 7 property, when was the last time you had been there?
 8 A. Probably I would say around February.
 9 Q. Okay. And you stated that you did not receive
 10 notice that there were any violations current on the
 11 property before May 1, 2020, correct?
 12 A. Correct.
 13 (Elizabeth Nelson joins the meeting)
 14 MS. SELINA: Can we go off the record for
 15 a moment?
 16 (Deposition Exhibit Number 1
 17 was marked for identification)
 18 BY MS. SELINA:
 19 Q. Okay, so I'm going to hand you what is marked as
 20 Defendant's Deposition Exhibit 1. This is a default
 21 decision and order from the Administrative Hearings
 22 Bureau. So under the section that says it is held
 23 that, number 3 says, I, Frank Badalamente, provided
 24 respondent notice of this violation by posting a
 25 copy of the ticket in a prominent place at the

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1 address where the violation occurred or sent a copy
2 of the ticket by First-Class mail to respondent's
3 last known address or personally served respondent
4 with a copy of the ticket.

5 This paragraph is made on my personal
6 knowledge. If sworn as a witness I can testify
7 competently to the facts in this paragraph. Is that
8 what it says?

9 A. Yes.

10 Q. Okay, and you are the respondent here, correct?

11 A. Yes.

12 Q. Okay. And it has the 7568 Hudson property listed,
13 correct?

14 A. Exactly.

15 Q. Okay. So you're claiming that you did not receive
16 notice of this default order?

17 A. Where's the ticket that goes with this? This is --

18 Q. I'm just asking whether you received notice?

19 A. Okay. First of all, March 4th, the mayor, the
20 governor and World Health Organization at the end of
21 February, they already declared COVID a pandemic,
22 okay. Right around -- in February she was up in
23 Michigan, and I sent her down with cash to handle
24 this.

25 Q. You're pointing at Ms. Nelson?

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1 A. Okay, Ms. Nelson.

2 THE WITNESS: And didn't you tell me --
3 MS. SELINA: She's not testifying right
4 now.

5 THE WITNESS: Okay. Well, I'm asking a
6 question. She said the place was locked up, City
7 Hall was locked up, it was like a ghost town.
8 Didn't you say that to me?

9 MS. NELSON: Yes, correct.

10 THE WITNESS: And you could not pay --
11 BY MS. SELINA:

12 Q. Okay. I don't mean to interrupt. I'm just letting
13 you know. Ms. Nelson -- we have her deposition too,
14 so she'll be able to testify and everything.

15 A. All right.

16 Q. But I just want to know whether you knew about this
17 hearing?

18 A. This hearing, you're holding hearings when there's a
19 worldwide pandemic going on and I'm in Ohio getting
20 treated for prostate cancer? Okay. I mean, Is this
21 guy a doctor? I know this guy, Frank, he's not a
22 doctor, okay. Are there doctors down at City Hall?
23 Do they know what COVID is at this time?

24 Q. Did you know that some court --

25 A. Yeah, some courts were.

1 Q. Some courts were held remotely?

2 A. Oh, this was held remotely, is that what you're
3 telling me?

4 Q. I just asked whether if you knew that some things
5 were held remotely?

6 A. Oh, you're telling me this was held remotely.

7 Q. I'm just asking if you know?

8 A. It was not held remotely, it was not.

9 Q. Okay. Do you have any evidence of that?

10 A. Do you have any evidence that it was held remotely?
11 Because I know for a fact it was not.

12 Q. Okay.

13 A. You expect me to come out of Ohio when the COVID is
14 jumping off to come up here? I never got a ticket
15 for this.

16 Q. Okay.

17 A. I never got a ticket. This is when people are
18 dying, when they're starting to die.

19 Q. Okay.

20 A. Nobody knows what the COVID is going to do. It
21 could have killed the whole population on the face
22 of the earth.

23 Q. All right.

24 A. In 1920 the great flu vaccine or sickness, it killed
25 40 million people, more than both world wars. This

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1 was equivalent to this.

2 Q. Okay.

3 A. You're expecting me to come up to some hearing I
4 never got a notice of in the middle of -- when the
5 pandemic's going on, talk to some quack?

6 Q. Okay. So did you -- it also says at the bottom,
7 respondent may file a motion to set aside this
8 default judgement --

9 A. Hey, she went down there with the money and the
10 place was like -- there was nobody there. City Hall
11 was locked, City Hall was locked. Was it locked --
12 it was like a ghost town.

13 Q. If you want what you're saying to be on the record,
14 you just have to not interrupt, okay?

15 A. Okay.

16 Q. All right.

17 A. Plus his law was declared unconstitutional, it was
18 sued by that firm out of Troy, Michigan, so to me it
19 was a class action lawsuit. Like I got document
20 that the code was declared illegal. So they never
21 told me, well, we're going to revamp the code.

22 Q. Who declared the code illegal?

23 A. Yeah, the federal judge, the federal judge. It was
24 in a consent decree. They paid 375,000 in law fees.

25 Q. So was it a settlement or was it a ruling by the



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1 court?

2 **A. It was a settlement. NILI versus the City of Warren**

3 **because there was no appeal process. Things were**

4 **arbitrary and they never notified me like we**

5 **revamped this code. So we need you to come out in**

6 **the middle of COVID to appear at this hearing for**

7 **some revamped code that was declared**

8 **unconstitutional. And the City agreed that it was**

9 **unconstitutional. I used that case in my brief.**

10 **NILI versus the CITY of Warren.**

11 Q. Okay, I'll have to reference that then. So the cars

12 on the Hudson property, those belong to Ms. Nelson,

13 correct?

14 **A. Exactly.**

15 Q. So did she have permission to store the cars on the

16 property?

17 **A. First of all, she was a renter there, and second of**

18 **all part of renting gave her access to both lots.**

19 **They're side by side lots.**

20 Q. So you had mentioned though that the tenants were

21 two men and then two women, but Ms. Nelson was also

22 a tenant?

23 **A. Exactly. Actually -- actually at that time there**

24 **was only one other guy, one other guy. Because the**

25 **other guy was gone.**

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1 Q. Okay. So was Ms. Nelson living at the property?

2 **A. Exactly.**

3 Q. At the time the cars were towed?

4 **A. Exactly.**

5 Q. Do you know whether she was there when they were

6 towed?

7 **A. No, I told you she was down in Cleveland. She was**

8 **living in the basement unit.**

9 Q. At one of your properties?

10 **A. At the Hudson property.**

11 Q. That's in -- the Hudson property is in Warren

12 though?

13 **A. Exactly.**

14 Q. Okay. Well, you just said she was living in

15 Cleveland.

16 **A. No. I said she went down to Cleveland and then the**

17 **COVID started jumping off. So her doctor told her**

18 **to stay down there.**

19 Q. Okay. Do you know whether you need permission from

20 the City to have cars parked indefinitely on your

21 property?

22 **A. Indefinitely? What's indefinitely, forever?**

23 Q. For an extended period of time.

24 **A. So extended, what's extended period of time,**

25 **indefinitely? Indefinitely is forever, a thousand**

1 years.

2 Q. It doesn't necessarily mean that.

3 **A. Okay, so a thousand years. They weren't parked**

4 **there a thousand years.**

5 Q. Say for longer than a month?

6 **A. Longer than a month? When the COVID is jumping off,**

7 **we're supposed move cars? Or the City is supposed**

8 **to come and tow cars during the middle of the COVID?**

9 Q. Okay, I want to move on to the conspiracy that you

10 allege is happening in the city.

11 **A. All right, go ahead.**

12 Q. So you stated that there's a conspiracy between the

13 City of Warren and various towing companies to steal

14 people's cars during COVID. Do you have any

15 evidence of that?

16 **A. No. I mean you got my under oath deal, right?**

17 Q. Sure, but I'm just asking the factual basis.

18 **A. No, I don't have any evidence of that.**

19 Q. So it's just your opinion?

20 **A. That's my opinion.**

21 Q. Okay. And is it a hypothesis based on any evidence?

22 **A. Well on a conspiracy you need one overt act. So the**

23 **cars were towed, okay, that's the overt act and I --**

24 **I know it's fairly easy to get titles for the cars**

25 **to auction them off. So --**

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1 Q. Did your car --

2 **A. In my mind --**

3 Q. I'm sorry.

4 **A. -- there's like an implicit agreement that we're**

5 **going to tow cars and we're going to auction them**

6 **off. Okay, I don't know how the tow company got the**

7 **contract for Warren, okay, it might be pay to play**

8 **or whatever. But it's -- those were tens of**

9 **thousands of dollars of cars. Okay, the COVID is**

10 **jumping off, so it looks like a conspiracy to me.**

11 Q. Okay, and you in your complaint said that

12 Robert Scott was prowling the city for cars to tow;

13 do you have any evidence of that?

14 **A. Well, somebody must have drove around and saw the**

15 **cars. So that's my definition of prowling, that he**

16 **was driving around looking for cars to tow.**

17 Q. Okay. So you're just assuming that's how it

18 happened?

19 **A. Exactly.**

20 Q. Okay. Do you know whether anyone made any

21 complaints about the property being blighted and

22 that's how it was brought to the City's attention?

23 **A. No.**

24 Q. All right. Do you know whether the police ever come

25 by the property because it's -- or whether the

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1 police drive by the property and may notice blight
2 on a property?
3 **A. I mean that's a police job now driving around**
4 **looking for blight. Is that in their definition of**
5 **keeping Warren safe?**
6 **Q. I'm just asking whether you know if that happens or**
7 **not?**
8 **A. Well I don't think that would be in the police**
9 **function to do -- to drive around looking for**
10 **blight. I mean if you're saying that's happening,**
11 **then they're part of a conspiracy too.**
12 **Q. Okay. Do you know of anyone else who had their cars**
13 **towed during COVID?**
14 **A. No, I don't.**
15 **Q. All right. So it's just Ms. Nelson's cars then?**
16 **A. Exactly.**
17 **Q. All right. You were able to get the cars back**
18 **though, correct?**
19 **A. Correct.**
20 **Q. Okay. So the City didn't really have the chance to**
21 **get title or make any money off of this, correct?**
22 **A. Right.**
23 **Q. Do you have any idea why these specific cars in the**
24 **entire city of Warren would have been targeted?**
25 **A. No, I don't.**

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1 **Q. Okay. How is Robert Scott, a person you named in**
2 **this lawsuit, involved in this conspiracy you**
3 **alleged?**
4 **A. Well, my understanding he was in the property before**
5 **and had got into the property using the tenants on**
6 **the second story to allow him in, to a living area.**
7 **Okay. Second of all about a year later he assaulted**
8 **me, which I filed a police report. So to me I don't**
9 **know what this guy's issue is, but I mean, I looked**
10 **over your discovery and you say he wasn't there.**
11 **And if you say he wasn't there, that's a lie because**
12 **that guy was there May 1st.**
13 **Q. How do you know that?**
14 **A. Okay. Because the dude's a psycho, okay, and**
15 **they're not going to come out there and tow cars**
16 **without him being there. Okay, earlier he had broke**
17 **into her apartment, okay, and so then he testified**
18 **under oath that this Kim Branson, one of the tenants**
19 **that he made them into informants, okay. And then**
20 **there was another incident a year later where he**
21 **towed cars and he was there on that incident. So**
22 **based on the facts, in my opinion he broke into the**
23 **house, he assaulted me up the tow yard.**
24 **He was there at the second towing. So**
25 **it's to me, it's beyond credibility that he want to**

1 **be there on the 1st, you know, on this May 1st**
2 **towing. And I talked to Elizabeth Branson, and she**
3 **said, hey, the City was there, the cops were there,**
4 **they were all over the place. Okay, it was like a**
5 **party there, okay. Multiple people. And so to me**
6 **Robert Scott was there. If you're saying he wasn't**
7 **there, that's a lie. I don't have any proof that he**
8 **was there, but in my opinion he was there.**
9 **Q. Okay, along those same lines why did you name**
10 **Mayor Fouts in the lawsuit?**
11 **A. Because to me he went on his Facebook and his news**
12 **release saying, oh, we got -- on a later incident,**
13 **we got bad landlord, blah blah blah, and so my**
14 **opinion this is like an ongoing thing. He's taking**
15 **a personal interest. So out of state landlords,**
16 **blah blah blah.**
17 **Q. Did that arrest that you're referencing happen after**
18 **the cars were towed the first time?**
19 **A. No. It happened after. Exactly.**
20 **Q. And did it happen -- that arrest happened after the**
21 **cars were towed the second time?**
22 **A. After, after.**
23 **Q. The arrest was after?**
24 **A. Right.**
25 **Q. Okay.**

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1 **A. Well, he was trying to arrest me when he was towing**
2 **the cars. I was in the Hudson building.**
3 **Q. Was that arrest that you're referencing, is that**
4 **related factually to this lawsuit?**
5 **A. Actually, no.**
6 **Q. Okay. And then Commissioner Dwyer, he's the police**
7 **commissioner; is that correct?**
8 **A. Exactly.**
9 **Q. And why did you name Commissioner Dwyer in this**
10 **action?**
11 **A. Well, the tenant Branson said the cops were on the**
12 **property, okay. I mean, to me in your discovery you**
13 **have not admitted that any cops were on the**
14 **property, but she told me the cops were on the**
15 **property. They were on the property May 1st, and**
16 **they were on the property when I was on the property**
17 **on the second towing which was July 5th, about a**
18 **year later.**
19 **So it's hard for me to fathom that their**
20 **-- while I see them with my own eyes a year later,**
21 **okay. And Kim Branson, the tenant, said the cops**
22 **were there. But in your discovery you're claiming**
23 **that the cops weren't there.**
24 **Q. What discovery are you referencing?**
25 **A. When you responded to my discovery. I haven't seen**

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1 any evidence that you admitted that any cops were
2 there.

3 Q. You haven't sent us any discovery request, so I'm
4 not sure what you're referencing?

5 A. **Well, you know, my understanding that is -- I'll
6 have to check that. I thought I did send discovery
7 requests.**

8 Q. Okay. If you have them, you know, feel free to send
9 them to us, but I don't know what you're
10 referencing.

11 A. **Okay.**

12 Q. And you mentioned the July 2021 towing. You said
13 you were present for that?

14 A. **July 5th.**

15 Q. Of 2021?

16 A. **Exactly.**

17 Q. Okay, what happened that day?

18 A. **Yeah, I come in from out of town to mow the lawn,
19 and I didn't know it at the time, but the tenant had
20 basically become an informant because she was being
21 evicted and it was like quid pro quo.**

22 Q. Is that Ms. Branson you're talking about?

23 A. **Right.**

24 Q. Elizabeth Branson?

25 A. **Exactly. And so she basically notified the city**

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1 **that I was in town. Like I came in there and then a
2 7:30, 8 in the morning, it was like swat hit the
3 property, like the police, all these -- this
4 Robert Scott.**

5 Q. Okay. And so the cars that were towed in July of
6 2021, were they the same cars that were towed in
7 May 2020?

8 A. **No, they were different cars.**

9 Q. Okay. Each time the cars were towed were you able
10 to retrieve them?

11 A. **Yes.**

12 Q. And Ms. Nelson didn't lose title to the vehicles or
13 anything like that?

14 A. **Correct.**

15 Q. Were the cars damaged in any way?

16 A. **No.**

17 Q. All right. And you said that were you exposed to
18 COVID on those trips. Did you contract COVID on
19 those trips?

20 A. **No.**

21 MS. SELINA: All right, I think maybe if
22 we take a quick break and I'll talk with my client.

23 (A brief recess was taken)

24 MS. SELINA: All right, Mr. Thrower, I
25 don't have any additional questions for you, but

1 Ms. Mead may.

2 **THE WITNESS: Okay.**

3 **CROSS-EXAMINATION**

4 BY MS. MEAD:

5 Q. Good morning, Mr. Thrower, I'm Jennifer Mead and I
6 am here representing the towers and the individuals
7 related to the towers. The -- and just the same
8 instructions or same comments that were made earlier
9 that if I ask a question and you don't understand,
10 just please let me know if I've fumbled the question
11 and you need some clarification.

12 A. **Okay.**

13 Q. If you answer it I'll understand -- I'll assume that
14 you understood my question.

15 So what is your relationship to
16 Elizabeth Nelson?

17 A. **Yeah, she's a tenant and she's a friend.**

18 Q. Okay.

19 A. **I mean she was a tenant at the time of this action.**

20 Q. Okay.

21 A. **She's not a tenant now.**

22 Q. And are the two of you in any dating relationship?

23 A. **Yeah, I would object to that, you know, the
24 relevance.**

25 Q. Okay. It's noted.

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1 A. **All right.**

2 Q. But you can answer the question. Is there any type
3 of dating relationship?

4 A. **Yeah, I don't think -- I don't think it's relevant,
5 so I'm not going to answer it. You need to get a
6 judge to order it.**

7 MS. NELSON: Besides, if you knew my
8 parents they would roll over in the grave if I ever
9 really dated him.

10 MS. MEAD: Ms. Nelson, you're not
11 testifying at this time.

12 MS. NELSON: It's morning, ma'am. I love
13 you to death, but I'm going to go have a cigarette
14 until you finish. I do not get up in the morning.

15 MS. MEAD: Okay.

16 MS. NELSON: Excuse me. I'm sorry, we
17 all have our times and morning isn't mine. So I'll
18 let you finish with him. I'm honest.

19 **THE WITNESS: Which one of the Hertz
20 brothers family is deceased?**

21 BY MS. MEAD:

22 Q. That is Edward Hertz.

23 A. **Okay.**

24 Q. You're aware that he is currently deceased?

25 A. **I think you brought it to my awareness.**

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1 Q. During the pretrial?
 2 A. **Well, during -- exactly.**
 3 Q. Okay.
 4 A. **During the course of stuff.**
 5 Q. Okay. Let me see. When did you start living -- did
 6 you ever actually live at 7568 Hudson?
 7 A. **Yes.**
 8 Q. Okay, when did you start living there?
 9 A. **Yeah, I was -- I was -- first of all I maintain a**
 10 **residence there and -- in -- I maintain a residence**
 11 **there, okay. As my capacity, like when I come up,**
 12 **okay, and I got to take care of stuff, over the**
 13 **years there were multiple properties. And so I**
 14 **would be up there months at a time. So off and on.**
 15 Q. When did you start maintaining that residence?
 16 A. **2012.**
 17 Q. Okay. And now do you pay anything for that
 18 residence?
 19 A. **I think on a lease it's like \$100 just say that --**
 20 **but it's basically as a capacity as the manager, but**
 21 **that is just -- make the contract validate is \$100,**
 22 **\$100 a month.**
 23 Q. Okay, but you --
 24 A. **Consideration.**
 25 Q. -- you don't actually pay the \$100?

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1 A. **Yeah, I pay a 100.**
 2 Q. Oh, you do pay the \$100?
 3 A. **Right.**
 4 Q. Okay. Now -- but you sold it, so you obviously
 5 don't -- I shouldn't say obviously. Do you continue
 6 to have a residence there now that the property is
 7 sold?
 8 A. **No, no, it's sold.**
 9 Q. Okay. And did you cease maintaining a residence
 10 there at the time of the sale?
 11 A. **Exactly.**
 12 Q. Okay.
 13 MS. MEAD: And I hate to say this, I
 14 didn't bring any exhibit stickers.
 15 MS. SELINA: Oh, there's stickers down
 16 here. Do you want me to make a copy?
 17 MS. MEAD: That would be great.
 18 MS. SELINA: Okay.
 19 (A brief recess was taken)
 20 BY MS. MEAD:
 21 Q. Mr. Thrower, did you ever get COVID --
 22 A. **No.**
 23 Q. -- after May 1st? Have you ever had COVID?
 24 A. **No.**
 25 Q. Okay. Let me see. Now, did you pay to retrieve the

1 four vehicles from Service Towing?
 2 A. **Yes.**
 3 Q. Okay, you actually paid it?
 4 A. **Yes.**
 5 Q. Okay. And did you go inside of Service Towing to
 6 retrieve --
 7 A. **Yes.**
 8 Q. If you could wait --
 9 A. **Okay, that's fine, right.**
 10 Q. -- until I finish just to make sure that we get a
 11 clear record.
 12 A. **Exactly.**
 13 Q. Did you actually go inside of Service Towing to
 14 retrieve each of the four vehicles?
 15 A. **Yes.**
 16 Q. Okay. Did you go by yourself?
 17 A. **Yes. Ms. Nelson, she was outside in the car and the**
 18 **COVID was jumping off. So I wanted to minimize**
 19 **exposure.**
 20 Q. Okay, thank you.
 21 (Deposition Exhibit Number 2
 22 was marked for identification)
 23 MS. MEAD:
 24 Q. I'm going to hand you a rental agreement. Do you
 25 recognize this rental agreement?

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1 A. **Yes.**
 2 Q. Okay. You've been talking about the lease agreement
 3 allowing you to stay on the property and where
 4 you're managing. Is this the actual -- is this the
 5 lease agreement that you've been talking about?
 6 A. **Yes.**
 7 Q. Okay. And at the bottom it is -- at the bottom
 8 there is a signature in the lower left-hand corner
 9 -- I'm sorry, in the lower right-hand corner. Is
 10 that your signature before tenant?
 11 A. **Yes.**
 12 Q. Okay. Now in the lower left-hand corner there's
 13 some writing. Do you recognize the writing?
 14 A. **Yes.**
 15 Q. Okay. And the writing that I'm talking about is
 16 where it says owner/agent?
 17 A. **Exactly.**
 18 Q. What does that say there?
 19 A. **St Anthony the Great Monastery.**
 20 Q. Okay. Who wrote that?
 21 A. **Actually, I wrote it.**
 22 Q. Okay. So you signed as the owner/agent and as the
 23 tenant?
 24 A. **Exactly.**
 25 Q. Okay. And then did you fill in the rental agreement

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1 yourself; did you fill that in?

2 **A. Yeah, after conferring with the other shareholders**

3 **based on a meeting of the minds, right.**

4 Q. Okay.

5 **A. I filled it in.**

6 Q. Okay. What other shareholders did you talk to?

7 **A. At this time I can't recollect. That was years ago**

8 **and I can't recollect.**

9 Q. Okay, okay. On May 1, 2020 who owned each of the

10 four vehicles that were towed?

11 **A. Elizabeth Nelson.**

12 Q. Okay. Now once you received -- let me see. Earlier

13 -- did you receive the notice of abandoned vehicle?

14 **A. Did I receive it?**

15 Q. Did you ever receive it?

16 **A. I mean, it was never addressed to me, okay. My**

17 **understanding it came to the property.**

18 Q. Okay.

19 **A. From the Secretary of State. So at some point I**

20 **think it was addressed to Elizabeth Nelson as the**

21 **owner.**

22 Q. Okay. Did you ever file a petition to contest

23 whether it was proper for the vehicles being removed

24 and deemed abandoned by the Warren Police

25 Department?

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1 **A. I mean, no, I never did that. They were towed on**

2 **the 1st, and I think they were all retrieved by**

3 **the 3rd.**

4 Q. Okay.

5 **A. Which would have been a Sunday. So I had to get**

6 **back to -- continue the prostate radiation five days**

7 **a week. So it was -- everything was done on the**

8 **Saturday and Sunday.**

9 Q. Okay. Once you received the notice of abandoned

10 vehicle, did you ever file a petition to contest the

11 propriety of the vehicles being towed by

12 Service Towing?

13 **A. I mean first of all, they were already retrieved and**

14 **the COVID was jumping off. So it wasn't -- and that**

15 **was not the foremost in my mind. Like I went right**

16 **back to Ohio to keep getting treated for prostate**

17 **cancer. And those letters didn't probably come**

18 **until like a -- by at least a month later.**

19 Q. Okay.

20 **A. And to my knowledge I didn't even see them until**

21 **maybe a couple months after that because the COVID**

22 **was jumping off. And so I was staying in Ohio.**

23 Q. Okay, I've got the same questions far as when you

24 received the notice of abandoned vehicle, did you

25 ever file a petition to contest the propriety of the

1 vehicles being be towed by Able Towing?

2 **A. No.**

3 Q. Okay.

4 **A. I mean, you say Able Towing. I thought it was**

5 **Service Towing now.**

6 Q. There's Service Towing and then there's Able Towing

7 as well.

8 **A. Okay, so they're both in existence?**

9 Q. Well, I'm just talking back then.

10 **A. Okay.**

11 Q. Okay. Now as far as damages, are you seeking

12 damages for -- there's a bag of cans of -- pop cans,

13 returnables, are you seeking damages for that?

14 **A. Well, not from your clients.**

15 Q. No?

16 **A. Not from the towing company.**

17 Q. Okay.

18 **A. And what my understanding is that -- yeah, I'm not**

19 **seeking damages for those from your clients.**

20 Q. Okay. What about are you seeking damages for a

21 bumper wrap?

22 **A. Right, from the City, from the City, not from the**

23 **Service Towing people. You know, I never alleged**

24 **that they took any personal property. The towing**

25 **people did not take that.**

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1 Q. Okay. So in your complaint there's mention of a --

2 of two bags of salt, a dog house, a Weber grill,

3 some wood and aluminum gutters. Are you seeking

4 damages for them?

5 **A. Right, but not from your clients.**

6 Q. Okay.

7 **A. Not from the towing people.**

8 Q. And now you list the towing companies of

9 Service Towing and Able Company, but then you also

10 list Edward Hertz, Bruce Hertz, Dennis Hertz and

11 Randy Sullivan. Oh, and also Sandra Hertz. Are you

12 seeking damages from any of those individuals, any

13 of the Hertzes or Randy Sullivan for any of the

14 personal property that we just went through?

15 **A. Not the personal property, just for the towing fees**

16 **and basically the conspiracy of coming on to the**

17 **private property and being called by state**

18 **officials. The conspiracy to violate my**

19 **constitutional rights. And then using the falsified**

20 **address too, where the cars were towed from. So**

21 **that's the damages I'm alleging.**

22 Q. Okay. So how much in the towing fees for each of

23 the vehicles are you seeking?

24 **A. Well, there were four vehicles. I think it was like**

25 **around 330 a vehicle, so around \$1400.**

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1 Q. And what other actual cost are you personally
 2 seeking damages for from the towers or from any of
 3 the Hertz or Brian Sullivan?
 4 A. Just what I said as far as they acting in the
 5 conspiracy with the City -- with the City actors and
 6 violating my constitutional rights by coming on to
 7 the property to tow the vehicles and then exposing
 8 me to COVID, having to come up and retrieve -- help
 9 retrieve these vehicles during the COVID crisis.
 10 Q. What cost did you incur from those -- from what
 11 you're claiming?
 12 A. Yeah, the cost of coming up to retrieve the vehicles
 13 and the one Hertz brother, he told me if you take
 14 these vehicles back, this Robert Scott is just going
 15 to tow us again. So then I had to get the cars away
 16 from there, which would have meant -- like get them
 17 back -- get them to Ohio.
 18 Q. Which brother?
 19 A. Yeah, I don't know which one it was. I don't know.
 20 I don't know which one's which.
 21 Q. Now what facts do you have that show that
 22 Sandra Hertz entered into a conspiracy with the City
 23 of Warren defendants?
 24 A. I mean to me, for conspiracy, you need an overt act.
 25 And so to come out towing the cars, that was the

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1 overt act, okay. My position is that it was illegal
 2 to come out and tow the cars. So, she's listed as
 3 the resident agent. And so I don't know if she's an
 4 owner or just her capacity as a resident agent, she
 5 would have to take service of the lawsuit. And I
 6 don't know the ownership structure, so that's why
 7 she's listed.
 8 Q. So was she there that day?
 9 A. I don't even know who she is, okay. So I don't know
 10 if she works in the office. I don't know who's who
 11 over there at Service Towing.
 12 Q. So you don't have any personal knowledge that she
 13 was there on the property?
 14 A. No.
 15 Q. You don't have any personal knowledge that she drove
 16 the tow truck?
 17 A. No.
 18 Q. Do you have any personal knowledge that she spoke
 19 with any of the City of Warren defendants --
 20 A. No.
 21 Q. -- regarding this matter? Do you have any documents
 22 in your possession that show that she acted in
 23 concert with the City of Warren defendants?
 24 A. You're talking about Sandra Hertz?
 25 Q. Regarding Sandra Hertz.

1 A. Right, I don't have any, no.
 2 Q. Okay. Now Edward Hertz, what evidence -- what facts
 3 do you have that Edward Hertz entered into a
 4 conspiracy with the City of Warren?
 5 A. I thought you said he was deceased.
 6 Q. He was alive at the time that this occurred, but
 7 then he died subsequent to this?
 8 A. Okay. I mean, I don't have -- just the capacity
 9 that the Hertz tow company came out and towed the
 10 cars. So to me there's -- as I allege, there's a
 11 conspiracy going on. They're violating the fourth
 12 amendment of the constitution and they're coming on
 13 private property. The COVID's jumping off. So I
 14 mean, I don't know what their capacity is to say,
 15 well, I'm not going to tow a car when -- I think the
 16 one Hertz brother told me that, hey, if they call us
 17 to tow a car, we're going to tow the car.
 18 So they're not going to sit there and
 19 say, well, are we legally allowed to tow this car or
 20 -- so that's the damages with Edward Hertz. I
 21 remember he's a -- I remember now, since you're
 22 saying he's deceased, he's the older, short fellow.
 23 And I mean I don't know who owns the company or who
 24 runs the company, but all I know is that the cars
 25 were towed.

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1 Q. Okay. Do you know if he was there when the cars
 2 were towed?
 3 A. I do not know if he was there when the cars were
 4 towed.
 5 Q. Okay. Do you have any documents in your possession
 6 that show that he entered into the conspiracy,
 7 entered into a conspiracy with the City of Warren
 8 defendants?
 9 A. No.
 10 Q. Do you have any evidence of any conversations that
 11 Edward Hertz had with any of the City of Warren
 12 defendants regarding the towing of the vehicles?
 13 A. No.
 14 Q. What about Bruce Hertz, do you have any -- scratch
 15 that. What facts do you have that Bruce Hertz
 16 entered into a conspiracy with the City of Warren
 17 defendants?
 18 A. I mean, I don't have any facts other than the fact
 19 that the cars were towed by the towing company.
 20 Q. Okay. Do you have any documentation that proves
 21 that Edward Hertz entered into a conspiracy with the
 22 City of Warren defendants?
 23 A. No. Except for the fact that for a conspiracy you
 24 need an overt act and do basically something
 25 illegal. And so it's based on those facts that I

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1 have the facts that they entered into a conspiracy
2 because their capacity as owner of the tow company,
3 they had to come out and tow the car. If they told
4 somebody to come out and let's kill somebody on this
5 property and somebody would be dead and then there
6 would -- I don't have any facts that do it.

7 But it's the same thing, they come out,
8 they tow the cars, okay. And it was illegal for
9 them to tow the cars. So that's the fact I have.

10 Q. But you don't have any other facts that there was a
11 discussion?

12 A. No.

13 Q. Okay. What about Dennis Hertz?

14 A. No.

15 Q. Okay. Do you know of any facts that would support
16 that Dennis Hertz entered into a conspiracy with the
17 City of Warren?

18 A. Just the overall facts. To have a conspiracy you
19 have to have an overt act. So they come out, they
20 tow the cars. And number 2 is, somebody has to be
21 responsible for that falsified address, using the
22 falsified address. So you come out -- you come out
23 to this address, but on the receipt and the
24 paperwork we're going to put a different address.
25 Now to me that's to get around -- to try to get the

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1 fifth definition of an abandoned vehicle. It's in a
2 meeting of the minds, that we're going to come in
3 and we're going to falsify the address so it looks
4 like there an abandoned vehicle.

5 When under the law, under the Michigan
6 law they did not fit the statutory definition of an
7 abandoned vehicle. So those are the facts that I
8 have. So we're doing illegal things. We're
9 falsifying address. I don't know who falsified the
10 address, but even on the receipts when I picked them
11 up it has the falsified address, 7528 Hudson Avenue.
12 So somebody at that tow company is writing the
13 falsified address. I mean, maybe they're so
14 lackadaisical they come to one address, tow cars,
15 and they might do that all the time, put in a
16 different address, okay.

17 My position is maybe they do; maybe they
18 don't. But to me they put -- somebody put the
19 falsified address. It's not that hard you come out
20 to one property you look at the house numbers on it
21 and it says one address, but we're going to falsify
22 it to another address. Now that's illegal, that's
23 falsification, okay. It caused documents to be
24 submitted to the Secretary of State that is
25 falsified.

1 So the evidence is the falsified
2 paperwork from your clients at Service Towing, and
3 the family owners, okay, Edward, Dennis, Bruce,
4 Sandra, okay, somebody had to write that on there.
5 And so that's the evidence that I have, okay, and
6 they're getting money for it too, way over a
7 thousand dollars in tow fees. And then when the
8 COVID's jumping off, I mean, why are they out towing
9 cars? You know, the governor has -- if somebody
10 goes down the street, it was a misdemeanor offense.
11 But, yeah, we can go out and we can tow cars.

12 Q. As far as you're saying that there was a falsified
13 address, what damages did you incur as a result of
14 the clerical error on the document as far as the
15 address?
16 A. Well, the damages are that it was an attempt to
17 conceal the fact of the real address that the cars
18 were towed from. So my position is that they --
19 being a tow company, they know what the abandoned --
20 Michigan Abandoned Vehicle Statute says and that
21 they knew they were doing something illegal or at
22 the least on shaky ground. We're going to come out
23 here and tow these cars off private property. So
24 what we're going to do is we're going to put a
25 different address with the COVID going on, it'll

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1 mask us to try to fit the statutory definition.

2 If they put this correct address on, then
3 they would not be abandoned vehicles under the
4 statute. The only reason that they're allegedly
5 abandoned vehicles is because of the falsified
6 address.

7 Now, maybe it was a mistake or whatever.
8 I mean, maybe you can argue that to a jury that, oh,
9 they made a mistake. Okay, but my opinion is that
10 it's not a mistake. That they know what the statute
11 says. So what they do is they falsify the address,
12 okay, your clients, you know, Dennis, Edward, maybe
13 Sandy, okay.

14 The ownership structure of the tow
15 company to fit the abandoned vehicle statute to make
16 everything look copasetic.

17 Q. Were you denied access to the vehicles because of
18 the wrong address?

19 A. No.

20 Q. Okay. It didn't hinder you in obtaining the
21 vehicles back, correct?

22 A. Correct.

23 Q. Do you know who wrote the address on the form?

24 A. No.

25 Q. Do you admit that it could have been a simple error?

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- 1 A. No, I don't -- I don't admit that because -- I don't
2 want to admit that.
- 3 Q. Was the notice sent to a different address?
- 4 A. Well, my understanding is once it's turned into the
5 Secretary of State that they do a title search, and
6 then they issue the letter to the owner which would
7 have been at the 7568 Hudson address, which is where
8 the letter came from -- came to. But that whole
9 process was put into effect by them calling -- at
10 this point that these were abandoned vehicles.
- 11 Q. So you received the letter from the Secretary of
12 State --
- 13 A. I mean she received the letter, because a -- but
14 that was like months -- months later because they
15 were going to send it to the owner of record, which
16 was 7568 Hudson.
- 17 Q. Okay, so the letter was sent to the correct address
18 anyway?
- 19 A. Exactly, exactly.
- 20 Q. Okay, okay. Randy Sullivan was the last individual.
- 21 A. Oh, Sullivan, where do you get that name?
- 22 Q. Randy Sullivan is listed as one of the defendants by
23 you.
- 24 A. I thought Randy Hertz, I thought it was Hertz. I
25 mean that's the guy's name, Sullivan?

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- 1 Q. Randy Hertz, I apologize. What evidence do you have
2 that Randy Hertz entered into a conspiracy with the
3 city of Detroit?
- 4 A. Just based on the facts that the cars were being
5 towed and that it being an overt act to come on to
6 private property to tow the cars and then using a
7 falsified address. It's based on those facts. I
8 don't have any other -- I can't even go down there
9 and say, oh, this is Randy, this is Dennis. I don't
10 know who's who.
- 11 Q. Okay.
- 12 MS. MEAD: I don't have any other
13 questions?
- 14 MS. SELINA: I don't either.
- 15 (Deposition concluded about 11:25 a.m.)
- 16 — — —
- 17
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1 CERTIFICATE OF NOTARY PUBLIC - COURT REPORTER

2 I do certify that the attached

3 deposition was taken before me in the above-entitled

4 matter; that the witness was first sworn to testify

5 the truth; that the testimony contained herein was

6 by me reduced to writing in the presence of the

7 witness by means of stenography, and afterwards

8 transcribed upon a computer. The attached pages are

9 a true and complete transcript of the testimony and

10 proceedings.

11 I do further certify that I am not

12 connected by blood or marriage with any of the

13 parties, their attorneys or agents, and that I am

14 not an employee of either of them, nor interested,

15 directly or indirectly, in the matter of

16 controversy.

17 IN WITNESS WHEREOF, I have hereunto set

18 my hand and affixed my notarial seal at West

19 Bloomfield, Michigan, County of Oakland, this 2nd

20 day of August 2023.

21 *Theresa L. Roberts*

22 Theresa L. Roberts, CSR

23 Certified Shorthand Reporter - CSR-4870

24 Notary Public - Oakland County, MI

25 My commission expires 10-4-2027

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CITY OF WARREN TREASURER
ONE CITY SQUARE
SUITE 200
WARREN, MI 48090-3995

Invoice For Permit: PSP15-01239

Print Date: 07/21/2015

Printed From: ELIABEN NELSON
Time: 2:35:03 PM
Date: 07/21/2015

Lot: 1915103

Owner: tnamino

Workstation: CRI Driver: 1

Pay by Account In Full



Pay by Account In Full

\$ 300.00

AMOUNT

ITEM REFERENCE

DEPARTMENT INVOICES

BDINV 20
00190470

\$300.00

ce No

476

Invoice Date

07/21/15

Permit Number

PSP15-01239

Amount Due

\$ 300.00

\$300.00

ss:

8235 REPUBLIC

TOTAL

\$300.00

on

CASH

Total Tended:

\$300.00

INSPECTIONS

Amount Cost

\$300.00

Balance

\$ 300.00

Change:

\$ 300.00

EX 6

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Elizabeth Nelson
07/24/2023

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH NELSON and
ALBERT THROWER,

Plaintiffs,

-vs-

Case No. 2:22-cv-10918
Hon. Matthew F. Leitman

SERVICE TOWING INC., ABLE
TOWING LLC, EDWARD D. HERTZ,
President, DENNIS HERTZ,
Treasurer, BRUCE HERTZ,
Secretary, SANDRA HERTZ,
Resident Agent RANDY (JOHN DOE)
Driver, Truck 210, BRUCE
(JOHN DOE) Driver, Truck 210,
DENNIS (JOHN DOE), Trust 162,
JOHN DOES 1-3, City of Warren
Property and Maintenance Employees,
2 ZONING DEPARTMENT EMPLOYEES,
City of Warren, JOHN DOES 1-3,
JOHN DOES 1-4, Warren Police
Department Policemen, CITY OF
WARREN, JOHN DOE, Warren Chief
of Police, JAMES FOUTS, Mayor,
ROBERT SCOTT, Supervisor:
Property and Maintenance
Division,

Defendants.

The Deposition of ELIZABETH NELSON, taken
before me, Theresa L. Roberts, Certified Shorthand Reporter
(CSR-4870) and Notary Public in and for the County of
Oakland, State of Michigan, at 255 East Brown Street,
Suite 320, Birmingham, Michigan, on Monday, July 24, 2023,
noticed for 11 a.m.

Elizabeth Nelson

07/24/2023

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1 APPEARANCES:
 2 In Pro Se: ALBERT THROWER
 3 P.O. Box 6702
 4 Cleveland, Ohio 44101
 5 (216) 856-6626
 6 al.thrower1@gmail.com
 7 In Pro Se: ELIZABETH NELSON
 8 P.O. Box 1422
 9 Warren, Michigan 48090
 10 (313) 319-7370
 11 For Defendants BERRY MOORMAN, P.C.
 12 City of Warren: By: Rachel C. Selina, Esq. (P85430)
 13 255 East Brown Street, Suite 320
 14 Birmingham, Michigan 48009
 15 (248) 645-9680
 16 rselina@berrymoorman.com
 17 For Defendants LAW OFFICE OF JENNIFER E. MEAD
 18 Service Towing By: Jennifer E. Mead, Esq. (P57106)
 19 and Able Towing: P.O. Box 806042
 20 Saint Clair Shores, Michigan 48080
 21 (313) 485-1250
 22 meadjenn@hotmail.com
 23 ALSO PRESENT: Ethan Vinson, Esq. (P26608)
 24
 25

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1 Birmingham, Michigan
 2 Monday, July 24, 2023
 3 (At about 11:34 a.m.)
 4

ELIZABETH NELSON

5 after having been first duly sworn to tell the
 6 truth, the whole truth and nothing but the truth,
 7 was examined and testified upon her oath as
 8 follows:
 9

DIRECT EXAMINATION

10 BY MS. SELINA:

11 Q. Could you please state your legal name for the
 12 record?
 13

14 A. It's Elizabeth Luise Nelson.

15 MS. SELINA: Okay, let the record reflect
 16 this is the date and time for the deposition of
 17 Elizabeth Nelson taken pursuant to notice and for
 18 all purposes under the Federal Rules of Civil
 19 Procedure and Federal Rules of Evidence.
 20

20 BY MS. SELINA:

21 Q. I introduced myself earlier, but you weren't here
 22 yet. My name is Rachel Selina. I represent the
 23 City of Warren defendants.
 24

25 Have you ever had your deposition taken
 before?

Page 5

1 A. No.
 2 Q. So, I'm going to go over a few ground rules. You
 3 may have seen that play out a little bit. But the
 4 court reporter's taking down everything that we say,
 5 so I'm just going to ask that if you respond kind of
 6 like you're doing right now, to give a verbal
 7 response rather than a head nod, okay?
 8 A. Okay.
 9 Q. That makes it easy. She can't write down that
 10 you're nodding your head.
 11 A. I understand.
 12 Q. All right. And you understand too that even though
 13 a judge is not present, you are still answering
 14 questions under oath, correct?
 15 A. Yes, ma'am.
 16 Q. Okay. And along those same lines too, I'll let you
 17 finish your answer before I go on to my next
 18 question. And I would just request that even if you
 19 think you know what I'm going to say, let me finish
 20 my question so we aren't interrupting each other.
 21 A. Okay.
 22 Q. And if you answer a question I'm going to assume
 23 that you understand, all right?
 24 A. Right.
 25 Q. All right. And if you need clarification, please

Elizabeth Nelson

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1 just ask.
 2 A. Okay.
 3 Q. Okay, Ms. Nelson, could you tell me your date of
 4 birth?
 5 A. 12-10-67.
 6 Q. Are you married?
 7 A. No.
 8 Q. Do you have any children?
 9 A. One.
 10 Q. How old is that child?
 11 A. Twenty-four.
 12 Q. Okay. Where do you presently live?
 13 A. Warren.
 14 Q. What is your address in Warren?
 15 A. No clue.
 16 Q. Can you give cross streets or the region?
 17 A. No.
 18 Q. Okay. Have you lived in that location for a while?
 19 A. No.
 20 Q. Where did you live prior to that?
 21 A. Which time, when? You mean now or before or, I
 22 mean --
 23 Q. Where have you lived --
 24 A. I've lived in Westland, I've lived in Warren,
 25 Detroit, like a lot of different -- I mean, right

Page 7

1 now Warren.
 2 Q. Okay. Where did you live at the time these cars
 3 were towed in May of 2020?
 4 A. The Hudson place.
 5 Q. Okay. And you lived there full-time?
 6 A. Right.
 7 Q. All right. Have you ever been involved in a lawsuit
 8 before?
 9 A. No.
 10 Q. All right. With the exception of this one?
 11 A. No, just this one.
 12 Q. All right. Can you describe your educational
 13 background?
 14 A. Wayne State University for my basic classes, and
 15 then I went to a small school called Technical
 16 Career Institute where I completed my medical
 17 assistant, did that for three and a half years; went
 18 back to school at Dorsey for patient care technician
 19 but did not finish.
 20 Q. Okay. Do you have any medical conditions or taking
 21 any medications that would impact your ability to
 22 testify today?
 23 A. I mean, yes. Does that matter?
 24 Q. Well, would it affect your memory at all?
 25 A. Yes.

1 Q. Okay, what is that?
 2 A. Yeah, the cancer has spread to my brain so, yes. My
 3 memory gets fuzzy.
 4 Q. Okay.
 5 A. This, I know though. This stuff, of course.
 6 Q. Okay.
 7 A. Because it's irritating.
 8 Q. All right.
 9 A. So it's easy to remember.
 10 Q. All right. Are you currently employed?
 11 A. Part-time on the books with St. Anthony Orthodox
 12 Monastery as a secretary.
 13 Q. Okay. Are there other employees that you work with?
 14 A. No.
 15 Q. What are your duties with St. Anthony?
 16 A. I help with the rentals like cleaning out the
 17 apartments or the rooms, stuff like that. Just like
 18 assisting with basic repairs, ideas, kind of
 19 supervision kind of things, reminders, errands, like
 20 running to the bank or stuff like that, supplies,
 21 Home Depot, et cetera.
 22 Q. Do you have any clerical work that you do other
 23 than --
 24 A. Considering the fact that I can barely see the
 25 computer, not a whole lot.

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1 Q. All right.
 2 A. I have to have it magnified; then you can only see a
 3 portion of it.
 4 Q. Okay.
 5 A. Right.
 6 Q. And so the 7568 Hudson property, you know which
 7 property I'm referring to?
 8 A. Of course.
 9 Q. Okay. Were you present the day that the vehicles
 10 were towed May 1, 2020?
 11 A. No.
 12 Q. Okay, how did you learn what happened?
 13 A. I guess a friend called him, Mr. Thrower.
 14 Q. Okay.
 15 A. And he called me and said, hey, this is what's going
 16 on.
 17 Q. Okay, and how did -- that's the extent of the source
 18 of your knowledge or did you find out --
 19 A. No, that's how I found out.
 20 Q. Okay. And each of the cars on the property were in
 21 your name, correct?
 22 A. Right.
 23 Q. Okay. And what was the address that the cars were
 24 linked to?
 25 A. I don't know.

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1 Q. Okay.

2 A. **I assume he put it toward the 7568, but I don't know**

3 **for a fact.**

4 Q. All right, you're talking about Mr. Thrower?

5 A. **Right.**

6 Q. Okay, why do you say he would have done that?

7 A. **I assume he would have done that.**

8 Q. No, but was Mr. Thrower -- did Mr. Thrower help you

9 with purchasing the cars and getting them titled and

10 everything?

11 A. **Yes, I don't have any money. I have \$750 a month.**

12 Q. Okay.

13 A. **I don't think that would purchase four cars.**

14 Q. Okay, so Mr. Thrower purchased them for you and put

15 them in your name?

16 A. **He told me to buy them, it would be a good**

17 **investment.**

18 Q. Okay.

19 A. **I said, okay. So he did all the footwork, the**

20 **money, you know, I didn't know -- you know, I don't**

21 **buy cars like for a hobby.**

22 Q. Sure. So the money came from Mr. Thrower to

23 purchase the cars?

24 A. **Right, right.**

25 Q. Okay.

Page 11

1 A. **Like a work bonus.**

2 Q. I see. Okay.

3 A. **There has to be some bonus, right?**

4 Q. Sure. So which cars were towed from the property?

5 A. **The four that were there.**

6 Q. Do you recall what they were?

7 A. **No.**

8 Q. All right. Do you still own those cars?

9 A. **I drive the Honda right now. That one's in my name.**

10 **That's it, I guess. The other ones are he sold them**

11 **or whatever.**

12 Q. Okay.

13 A. **Just the Honda is in my name.**

14 Q. So you went with Mr. Thrower to retrieve the

15 vehicles when they were towed, correct?

16 A. **Right, right.**

17 Q. And did you go inside and speak to anyone to

18 retrieve them?

19 A. **No.**

20 Q. Okay.

21 A. **It was like tiny and the COVID was going on.**

22 Q. So you didn't contract COVID from going to retrieve

23 the vehicles?

24 A. **I didn't contract COVID at all.**

25 Q. Okay. And when you got the cars back, was there any

1 damage to the vehicles?

2 A. **Now there's a couple lawsuits going because one time**

3 **they -- I purposely parked my car like this, but**

4 **that's not this time, this is the four. Okay, the**

5 **four were parked like normal. Like here's the**

6 **fence. The wood fence goes on the one side. Now**

7 **the guy built up this side, but there was only a**

8 **wood fence like right here. And they were behind**

9 **the fence like one, two, three, four.**

10 Q. Okay, why didn't you keep the cars there?

11 A. **Where am I supposed to keep the cars?**

12 Q. Did you drive all of them?

13 A. **Not at once, no.**

14 Q. Well, I know not at once. But did you --

15 A. **I'm poor -- I don't -- I don't -- why would I buy**

16 **four cars? That wouldn't even occur to my brain.**

17 **Okay, he's the one that says, hey, it's a good**

18 **investment. Okay. All right, I take your word for**

19 **it. I don't know. Like even my dad, who was a**

20 **corporate guy and had money, didn't have four cars.**

21 Q. So did you only drive one of the cars or did you

22 just choose which one you wanted to drive on a

23 particular day?

24 A. **I only drove one of them, yeah.**

25 Q. Okay. Do you know if the others were used at all?

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1 A. **I mean, yeah, they were used.**

2 Q. By who?

3 A. **He drove them.**

4 Q. Okay.

5 A. **I mean he drove them back from the Michigan -- you**

6 **know, you have to get them when they're wrecked. He**

7 **got them wrecked.**

8 Q. Okay.

9 A. **Okay, so you go on the website and you get the**

10 **wrecked cars and you have somebody fix them.**

11 Q. I see, okay.

12 A. **So I mean, but it took two of us to get them from --**

13 **I forget what you call that place, the Michigan -- I**

14 **forget what it's called. But, yeah, then you got to**

15 **get it off that property. Some of them run and some**

16 **of them don't run. So it's not really a single man**

17 **operation at anytime. I mean unless you're a**

18 **mechanic type person.**

19 Q. Okay. How did you meet Mr. Thrower?

20 A. **I was staying over on Packard and he appeared one**

21 **day. I was renting a one bedroom. I don't know,**

22 **this weird guy appeared and started running around**

23 **acting real weird. I didn't know who it was. But**

24 **about a month and a half later we were told that --**

25 **my friend and I were told that he was like the new**

Elizabeth Nelson

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1 owner, I guess.
 2 Q. And you're talking about Mr. Thrower?
 3 A. Right.
 4 Q. Okay.
 5 A. Right, the gentleman that owned it didn't tell us
 6 anything like -- you know, nobody ever tells your
 7 renters anything. So we didn't know who this
 8 strange guy was running around the place.
 9 Q. Okay. So whose idea was it to file this lawsuit
 10 against the City and the Service Towing?
 11 A. Well, obviously, mine.
 12 Q. It was?
 13 A. Well I'm pretty broke, yes. My sister stole 90% of
 14 my money. So, I'm sitting here wanting to retire
 15 and wanting to relax and I can't. Pretty annoying.
 16 Q. Did you draft any of the documents that have been
 17 filed at all?
 18 A. How would I do that?
 19 Q. I'm just asking.
 20 A. Without a legal background I doubt it.
 21 Q. Okay, so Mr. Thrower drafted all the documents?
 22 A. Right. Does that matter?
 23 Q. No, I'm just asking.
 24 A. Yeah. I don't know how to do this stuff.
 25 Q. Okay. When I sent the discovery requests to both of

Page 15

1 you, did you write those answers?
 2 A. How can I do that? I can't see the computer.
 3 Q. They're handwritten. Do you recall writing those?
 4 A. No. I'm sure he did it.
 5 Q. Okay.
 6 A. I mean, he's helping me with it. I can barely see.
 7 I mean, I can see to drive but it is rough some
 8 days.
 9 Q. Okay.
 10 A. You know, I'm ill with cancer, no. I can do, you
 11 know, not a whole lot right now. That's what's
 12 worrying me. I'm sitting here can't do anything,
 13 can't function, and I'm sick as flip. So what are
 14 you supposed to do at 55? You're not cute anymore,
 15 so now what. You know, I go work at Walmart? I
 16 have to do something. I mean, God knows I missed a
 17 couple of the doctors I should have grabbed, but I'm
 18 not really the sue type.
 19 Q. Okay. So, the July 2021 when the cars were
 20 towed --
 21 A. Right.
 22 Q. Were those cars also in your name?
 23 A. Right.
 24 Q. Okay. And you were able to retrieve those too?
 25 A. Right.

1 Q. Was there any damage to those vehicles?
 2 A. Not that I know of.
 3 Q. Okay, and the fees that needed to be paid to
 4 retrieve them Mr. Thrower paid, correct?
 5 A. Right.
 6 Q. Okay.
 7 MS. SELINA: I don't think I have any
 8 more questions.
 9 CROSS-EXAMINATION
 10 BY MS. MEAD:
 11 Q. Good morning, Ms. Nelson.
 12 A. Good morning.
 13 Q. I'm Jennifer Mead and I represent the towing
 14 companies and the individuals, the Hertz, the
 15 individuals related to the towing companies. So
 16 I've got some questions for you. Now, as you heard
 17 me tell Mr. Thrower before, if I ask a question and
 18 it just doesn't make sense to you, let me know,
 19 okay. If I fumble a question, which I do, if I
 20 fumble it, let me know and I'll rephrase it and we
 21 can get through it.
 22 Now what is -- let me see. At the time
 23 that the -- back in May, May 2021 when the cars were
 24 towed, what was your relationship with Mr. Thrower?
 25 A. I mean does sugar daddy count? Do you Birmingham

Page 17

1 people use that? I'm from Macomb County. We use
 2 different phrases for different things.
 3 Q. Okay.
 4 A. Does that count, meaning some guy that helps you?
 5 Q. Okay.
 6 A. Because obviously, like I said, my sister stole 90%
 7 of my money.
 8 Q. Okay.
 9 A. Seven hundred and fifty a month isn't going to pay
 10 for anything.
 11 Q. So he helps you?
 12 A. Right.
 13 Q. Okay.
 14 A. Somebody has to. Might as well be him, right? It
 15 can't be anybody I hang out with. They're poor.
 16 Q. Do you work for him?
 17 A. Part-time.
 18 Q. Okay. And are the two of you in a dating
 19 relationship?
 20 MR. THROWER: Yeah, I objected to that
 21 when they asked me.
 22 MS. MEAD: Mr. Thrower, your deposition
 23 is over. This is for Ms. Nelson.
 24 THE WITNESS: No.
 25

Elizabeth Nelson

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Pages 18..21

Page 20

1 BY MS. MEAD:
 2 Q. Okay, okay. Now, when did you start living at
 3 7568 Hudson?
 4 A. **Been there for a while.**
 5 Q. Okay.
 6 A. **I mean, I've been back and forth between like Ohio**
 7 **and Michigan many, many times living in both states.**
 8 **So, I mean, I don't know. I mean, I don't have the**
 9 **dates in front of me of when I moved in and all**
 10 **that. I'm sorry.**
 11 Q. Do you know roughly what year?
 12 A. **This was four years after -- okay, I had my surgery**
 13 **in '16 so this was 2020 or '21.**
 14 Q. I'll tell you what, let me show you -- this might
 15 help. I'm not trying to make this into a memory
 16 quiz, and so --
 17 A. **I mean, I was living -- at the time that this**
 18 **occurred, which is what is relevant, I was living at**
 19 **7568 Hudson and renting the apartment.**
 20 Q. Okay.
 21 A. **That's all that's relevant, I think, right? Is like**
 22 **at the time where were you living? 7568 Hudson.**
 23 (Deposition Exhibit Number 3
 24 was marked for identification)
 25

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1 BY MS. MEAD:
 2 Q. Let me just give you this and see if maybe this will
 3 clear it up. I've got a copy of the rental
 4 agreement.
 5 A. **Okay.**
 6 Q. I've got a copy of the rental agreement. And so,
 7 I'm going to --
 8 A. **But you're asking me to remember something I can't**
 9 **possibly remember.**
 10 Q. That's why I'm trying to --
 11 A. **I bounce back and forth between Ohio and Michigan so**
 12 **much I don't even know my name.**
 13 Q. Okay, yes, Ms. Nelson, that's why I've got this
 14 document, and so I'm trying to help you and to see
 15 if --
 16 A. **Help me what?**
 17 Q. To see -- hold on for a second.
 18 A. **I don't understand. The only thing that matters is**
 19 **where was I living at the time this occurred. I was**
 20 **living properly at 7568 Hudson.**
 21 Q. Okay. I'm going to hand --
 22 A. **Okay.**
 23 Q. -- to you a rental agreement.
 24 A. **Which I can't see. Not really, a little bit but,**
 25 **okay.**

1 Q. You can hold on to that.
 2 A. **I don't need that. I don't understand why you're**
 3 **asking me this.**
 4 Q. Okay.
 5 A. **What are you getting at?**
 6 Q. Okay. So I'm asking this rental agreement --
 7 A. **Okay.**
 8 Q. Is that your signature --
 9 A. **Of course.**
 10 Q. -- in the lower --
 11 A. **Of course.**
 12 Q. If you could just allow me to ask the question, and
 13 then if you could answer after.
 14 A. **I know my own signature. That's my signature.**
 15 Q. Okay. What I'm trying to ask you to do is to not
 16 talk over me so that we can have a clear transcript,
 17 okay? Because the court reporter, she can only type
 18 when one person is talking at a time, okay. All
 19 right So that's your signature on the rental
 20 agreement?
 21 A. **Okay.**
 22 Q. Let me see. In the lower left-hand corner there's a
 23 signature for owner/slash agent.
 24 A. **Okay.**
 25 Q. Do you recognize that signature?

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1 A. **Of course.**
 2 Q. Whose signature is that?
 3 A. **St. Anthony, Albert. Right.**
 4 Q. Okay. That's St. Anthony, Albert is the signature?
 5 A. **It's his signature, Albert Thrower.**
 6 Q. Okay.
 7 A. **St. Anthony Orthodox Monastery.**
 8 Q. Okay. So that's Albert Thrower's signature?
 9 A. **Of course.**
 10 Q. Okay. And this rental agreement, the date that it
 11 was signed was August 10, 2018.
 12 A. **Okay.**
 13 Q. Is that the date when you would have moved in?
 14 A. **I guess. I had surgery and almost died 2016, okay.**
 15 **So for about two and a half years I couldn't eat.**
 16 **After that finally about '19 -- it got a little**
 17 **better. I could barely stand up from after the**
 18 **surgery I had multiple problems, multiple doctors.**
 19 **Everything was messed up for like at least four and**
 20 **a half years.**
 21 Q. Okay. Do you remember moving into the 7568 Hudson
 22 Avenue?
 23 A. **No, I don't remember much from the time I had my**
 24 **surgery until now. I don't feel well, lady. I'm**
 25 **sorry to be rude. I don't mean to be rude to you or**

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1 whatever. But no, I was trying to live.
 2 Q. Okay.
 3 A. I didn't care.
 4 Q. Okay.
 5 A. I mean I assume that was the date I moved in. What
 6 does that have to do with today though? I don't
 7 mean to be irritating, but I don't understand.
 8 Q. I'm trying to get some background information just
 9 to see how long you'd been living at that address.
 10 A. Okay.
 11 Q. This is a deposition and I can get background
 12 information.
 13 A. But you aren't -- okay.
 14 Q. That's all I'm doing.
 15 A. I just don't feel well, so...
 16 Q. How much do you pay -- how much did you pay to live
 17 at 7568 Hudson?
 18 A. Whatever it says on the sheet. Like I said, I don't
 19 remember a whole lot about anything, especially this
 20 stuff. Six-hundred, I guess.
 21 Q. Okay. So who was your landlord while you were
 22 living at the 7568?
 23 A. Albert Thrower.
 24 Q. Okay. And are you still renting from
 25 Albert Thrower?

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1 A. No.
 2 Q. Okay. Now did you ever contract COVID after
 3 May 1, 2020?
 4 A. No, I never contracted COVID, period.
 5 Q. Okay. Did a doctor advise you -- did a doctor at
 6 Eastern Michigan --
 7 A. Right, my family doctor, yes.
 8 Q. Okay. Did he advise you not to come to Michigan?
 9 A. Right, yes, correct.
 10 Q. Okay. What's the name of that doctor?
 11 A. I don't recall.
 12 Q. Okay.
 13 A. He has an office in that weird spot, where is it?
 14 Past U of M. He's got a family doctor, like there's
 15 an office building. I think there's a couple of
 16 different doctors in there from EMU. I mean there's
 17 lots of them, but that one is like in an offshoot
 18 area.
 19 Q. All right. Now when -- all four vehicles were
 20 retrieved from Service Towing, correct?
 21 A. Right.
 22 Q. And you never entered into Service Towing to
 23 retrieve the cars, correct?
 24 A. I went on the property. I didn't go in the office.
 25 Q. Okay. So you remained in the car?

1 A. No. I went on the property.
 2 Q. Okay.
 3 A. Not in the office though, not in the little cubicle
 4 office thing, but on the property I was.
 5 Q. Okay.
 6 A. Yes, I got out of the car.
 7 Q. Oh, okay, all right. And Mr. Thrower actually went
 8 into the office?
 9 A. Right.
 10 Q. Okay?
 11 A. It was a tiny office and with COVID going on, you
 12 could only have one person in there.
 13 Q. Okay.
 14 A. There were two people in there already, I wasn't
 15 going to squash in.
 16 Q. Now on May 1, 2020, did you own each of the four
 17 vehicles?
 18 A. Right.
 19 Q. Did you sell any of the vehicles to Albert Thrower?
 20 A. No, not that I know of, but God only knows.
 21 Q. Okay.
 22 A. Like I said, I don't know if he put it down that I
 23 sold it to him. Like I said, I'm not concerned
 24 about this. I'm concerned about trying to survive
 25 the day without ending up in the hospital right now.

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1 I don't feel well and I need to rest.
 2 Q. I'm sorry.
 3 A. I'm sorry too.
 4 (Deposition Exhibit Number 4 and
 5 5 were marked for identification)
 6 MS. MEAD: What exhibit are we at?
 7 THE WITNESS: I don't see what difference
 8 that makes either. That doesn't matter. That was
 9 after that anyhow.
 10 BY MS. MEAD:
 11 Q. Now I'm going to hand you two certificates of title.
 12 I've got these marked as Exhibits 4 and 5.
 13 A. Okay, thank you. I don't know why you're giving
 14 these to me. I can't see them. Look at these
 15 copies, can you see that? I cannot see this. But,
 16 okay, go ahead. Why is that relevant or important,
 17 please?
 18 Q. These are the copies of the titles that were
 19 provided in documentation from you.
 20 A. Okay.
 21 Q. And so these are the best copies that we have.
 22 A. Okay.
 23 Q. So that's why I'm using these is because --
 24 A. Okay.
 25 Q. -- better copies were not provided to us --

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1 A. Okay.
 2 Q. -- as part of the lawsuit.
 3 A. Okay, so what is your question, please?
 4 Q. So on the title to the 2012 Mazda --
 5 A. Okay.
 6 Q. -- that title shows your signature; is that correct?
 7 A. Right.
 8 Q. Okay. Now it -- I want to confirm there's also
 9 Albert Thrower's signature as the purchaser.
 10 A. Okay.
 11 Q. Okay, there's no date on his signature.
 12 A. What does that mean? You're good in the law, I'm
 13 not. I don't understand.
 14 Q. Okay. This is not a legal question, ma'am. Look at
 15 the Exhibit 4 that I've handed to you.
 16 A. Okay.
 17 Q. Is there a date on -- is there a date by
 18 Albert Thrower's signature?
 19 A. I can't really see it very well. I don't see a
 20 date. But what is your point, please?
 21 Q. When did Mr. Thrower sign?
 22 A. I don't know.
 23 Q. Okay. Did you sell the 2012 Mazda?
 24 A. If he wrote it down that I did, I did, right,
 25 correct. He does the work. I don't know how to do

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1 this stuff. I repeated this. No offense or
 2 anything, but I told you. I don't know how to do
 3 this stuff by myself. It wouldn't even occur to me
 4 to do this stuff by myself. I don't think like
 5 this. I'm a creative person, not like invest in
 6 this or that. And my father did not teach me to buy
 7 cars.
 8 Q. Did you --
 9 A. I'm sorry, but...
 10 Q. Okay, so you're not sure when he signed it?
 11 A. He prepared the lawsuit, correct? He prepared
 12 everything. So do I know the date that we did each
 13 booking of papers? No. Is that what you're asking?
 14 Q. What I'm asking, this --
 15 A. I don't see a date on the form.
 16 Q. Okay. But the car was titled to you, correct?
 17 A. Right.
 18 Q. Okay. And you sold the car to Albert Thrower?
 19 A. If that's what the paperwork says, yes.
 20 Q. How much did you sell the car --
 21 A. I don't know. How am I going to know? I'm fighting
 22 for my life, I don't know this stuff. That's why I
 23 have him. I don't care about this stuff. Don't you
 24 understand? This is not my forte. I'm not -- this
 25 isn't something I would do by myself. I've

1 explained this to you that this kind of thing is not
 2 what I'm good at, it's not what I do. So -- and I'm
 3 not interested in it at all, obviously, since I
 4 drive the crappier of the cars, okay. I like old
 5 cars, not new ones.
 6 So, you know, I don't know. Sometimes
 7 you have to listen to somebody that's smarter than
 8 you. Well, he's smarter when it comes to money. I
 9 just spend money. I don't know how to make money.
 10 Q. Do you know if he gave you any money for the car?
 11 A. He didn't give me any money for the car that I know
 12 of.
 13 Q. Okay. Did Mr. --
 14 A. All I know is we went to the tow -- not the tow
 15 place, but the place, got four wrecked cars. He
 16 said it would be good to fix them up, have some
 17 other vehicles an option or whatever. So I did what
 18 the man said. Because I don't know any better about
 19 this kind of thing.
 20 Q. Okay.
 21 A. Right? Right. So I don't know what I'm doing with
 22 regard to buying cars. My father was a corporate
 23 man. He didn't buy cars. As a matter of fact we
 24 had to beg my father not to run out of oil. He
 25 wouldn't even get his oil changed.

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1 Q. Okay.
 2 A. He was a corporate man.
 3 Q. The Exhibit Number 5, if you'd like to look at it.
 4 And again, I know this is what was provided to us.
 5 A. Okay.
 6 Q. Is that car also -- was that car also in your name?
 7 A. Which car is this?
 8 Q. This is a 2012 Mazda station wagon.
 9 A. I assume it was in my name. Why?
 10 Q. Okay.
 11 A. All four cars were in my name. All four cars that
 12 were on the property were under my name.
 13 Q. Okay.
 14 A. All right.
 15 Q. Now is on Exhibit 5, is -- did you sell this car to
 16 Albert Thrower?
 17 A. If that's what the paperwork says.
 18 Q. Do you know how much?
 19 A. Ma'am, with all due respect, I'm lucky if I can
 20 remember yesterday. The cancer has spread. Okay, I
 21 was operated on in 2016. It took me two and a half
 22 months to form a full sentence. That's how much
 23 medication they gave me, okay. I had to actually go
 24 to bed, okay. He tried to work me to death and my
 25 neighbors saved my life and said, you're going to

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1 bed. You cannot sit there and have a major
2 operation and be up and trying to work and stuff,
3 okay.

4 So I mean you're asking something I can't
5 tell you. That's why he does my work for me,
6 because I'm not interested in vehicles unless
7 they're like '67, okay. I don't like modern cars
8 and modern things. Not to be frustrating, but --

9 Q. I understand that.

10 A. Okay.

11 Q. And I apologize for the cancer and what you've been
12 through. But I also have to ask these questions.

13 A. But if I don't remember, then how are we supposed to
14 proceed?

15 Q. Well --

16 A. I barely remember yesterday and that you said to
17 tell the truth, didn't you?

18 Q. Yes.

19 A. Okay. Now during this time I was going to EMU for
20 my medical care, and it wasn't going well because
21 the COVID hit. So, therefore all of us that didn't
22 have COVID, all right, that had cancer, were kind of
23 like dumped in this pile of people that really
24 didn't get seen for a while. It took them a while
25 to figure out, okay, this person needs this video

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1 visit, this person has to -- you know, it took a
2 while for like -- I had no medical care for a while
3 because the patients that weren't like needing
4 immediate surgery were like kind of shuffled off for
5 a moment because they didn't know what to do.

6 Q. Well let me ask. Once you received the notice of
7 abandoned vehicle, did you file petition to contest?

8 A. I don't remember receiving any notice. He called me
9 and said the vehicles were gone.

10 Q. Okay. Did you ever file a petition to contest
11 whether it was proper for the vehicles being removed
12 and deemed abandoned --

13 A. It was never proper for the vehicles to be touched
14 at all.

15 Q. Ma'am, if you could listen to my question.

16 A. I hear you. Ask him, he's the one that did the
17 lawsuit.

18 Q. We've already concluded his deposition.

19 A. Okay, so I don't know.

20 Q. This is your deposition.

21 A. To answer all your questions about any kind of
22 documents, ask him. I mean I don't mean to be rude,
23 but, I don't know and I can't tell you.

24 Q. But I need you to ask you a question and I need for
25 you to answer.

1 A. You're treating me like I'm retarded. I kind of am
2 in a way because I don't feel well, okay, I'm
3 exhausted. I want to go home and go to bed now.
4 Any documents or something, he drew this up because
5 I can't do this type of work. So if you have a
6 question on any document, date, place, time, you
7 have to ask Mr. Thrower. But I mean I didn't write
8 down everything at the time. I was trying to save
9 my life.

10 Q. And I understand that.

11 A. Sorry. So all questions pertaining to paperwork
12 you're going to have to ask him.

13 Q. So let me just ask you a question -- let me ask you
14 some questions. And if you want to answer however
15 you want to answer, just answer them for me.

16 A. I'm doing my best.

17 Q. Did you file a --

18 A. I don't know. How would I know that?

19 Q. Ma'am --

20 A. He did the lawsuit. We're done. I'm going home and
21 I'm going to bed. You can do what you want. I
22 answered the question.

23 MR. THROWER: Hey, just tell her you
24 never filed a petition.

25 THE WITNESS: I don't know if I did or I

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1 didn't. You did it.

2 MR. THROWER: You didn't file.

3 THE WITNESS: Well, I don't know. How am
4 I supposed to -- you tell me to tell the truth. So,
5 I tell the truth. I'm not sure, I don't know. And
6 then you question what I'm saying. I'm saying I
7 don't know. If I don't know, I don't know.

8 BY MS. MEAD:

9 Q. Ma'am, I need to ask the entire question without you
10 cutting me off.

11 A. Okay.

12 Q. So let me ask the entire question.

13 A. Okay.

14 Q. Once you received the notice of abandoned
15 vehicle --

16 A. I never received a notice. He called me and said
17 the vehicles were gone. I didn't receive a notice
18 in the mail or in my postbox or anywhere. There was
19 no notice I received. He called me and said the
20 vehicles were gone.

21 Q. Okay. Did you file a petition to contest whether it
22 was proper for the vehicles being removed --

23 A. I don't know.

24 Q. Ma'am, if -- please stop interrupting.

25 A. Well, I can't do that.



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1 Q. You will make --
 2 A. **Because I do not know. I've answered your question**
 3 **three times.**
 4 Q. No, you have not.
 5 A. **I'm not going to keep answering your question.**
 6 Q. You have not. You will not allow me to answer (sic)
 7 the question.
 8 A. **You already said that, did you file this. I don't**
 9 **know. Ask him. I answered you. I didn't file**
 10 **anything. I don't know how to file anything. I've**
 11 **explained this to you nicely. I can't do this if I**
 12 **tried.**
 13 Q. Okay.
 14 A. **Okay, I'm trying to answer your question. You said**
 15 **to tell the truth. The truth is I don't know if I**
 16 **filed it or not. Ask Mr. Thrower. He's the one**
 17 **that wrote this up. I'm telling you the truth.**
 18 Q. So you don't have any knowledge -- you don't have
 19 any knowledge --
 20 A. **He told me what he was doing each step of the --**
 21 **MR. THROWER: Hey, just relax.**
 22 **Everything's going --**
 23 **THE WITNESS: Wait a minute. No, no, no**
 24 **no. No, I'm answering the question correctly and**
 25 **telling the truth. I was quiet during yours. He**

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1 **wrote everything up and told me at each step what he**
 2 **was doing and if he needed my signature on anything.**
 3 BY MS. MEAD:
 4 Q. Okay.
 5 A. **There were several steps to all this stuff. I'm not**
 6 **like a law person at all, obviously. So he tells**
 7 **me, okay, I'm doing this, I'm filing this. But I**
 8 **don't pay attention too much because that's not my**
 9 **side of the brain. I mean, I'm trying. You know,**
 10 **but good God, I mean, paperwork is like that. I**
 11 **don't know.**
 12 Q. So you have no memory or any knowledge --
 13 A. **I have a memory of him taking a stack of papers,**
 14 **okay? And he brings them to me, right, like this.**
 15 **And he says, okay, we've got this, we've got this,**
 16 **but none of it makes sense to me because I'm not a**
 17 **law person. You can talk about a deposition, you**
 18 **can talk about going to court and all this stuff,**
 19 **but it's just an area I'm not gifted in. So, yeah,**
 20 **I'm listening but not really -- if you speak medical**
 21 **I can speak that. If you speak animal, I can speak**
 22 **that. Law I don't speak. I'm just not gifted.**
 23 **So I wanted him to write everything up**
 24 **and he does tell me at each interval what he's**
 25 **doing. But do I remember the exact day on the exact**

1 **section? No.**
 2 Q. Okay.
 3 A. **Do you know what I mean? I don't know if that makes**
 4 **sense.**
 5 Q. You don't have any memory or any knowledge of filing
 6 a petition in the 37th District Court?
 7 A. **I mean, memory, what does that mean? That means to**
 8 **me now or at the time? Are you talking about now or**
 9 **like when that was filed, all this stuff? I mean**
 10 **there were different dates when stuff was filed.**
 11 Q. Did you file things in the 37th District Court?
 12 A. **No, he went with me to do it. I don't know how to**
 13 **do this. That doesn't make any sense. I wouldn't**
 14 **do this by myself. This is not my thing. That's**
 15 **why he's helping me.**
 16 Q. Okay.
 17 A. **He went with me every step of the way, wrote it up,**
 18 **told me this is what this is. But do I remember the**
 19 **exact date I signed this or -- no.**
 20 Q. Okay.
 21 A. **He let me know though, but it's gibberish to me**
 22 **because I don't speak law. I mean, I listen and**
 23 **everything but it doesn't mean a whole lot to me. I**
 24 **mean, I don't really understand it like you do or**
 25 **she does or that lady. Sorry.**

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1 Q. Are you seeking any damages --
 2 A. **I'm seeking money.**
 3 Q. Okay.
 4 A. **I'm broke.**
 5 Q. Are you seeking damages for the personal property
 6 such as like a bag of cans, pop bottles,
 7 returnables, are you seeking any --
 8 A. **If that's what he wrote down, yes.**
 9 Q. Okay.
 10 A. **I'm sure he wrote that down, right? It's on a paper**
 11 **somewhere, correct?**
 12 Q. Are you seeking damages from the towing --
 13 A. **I'm seeking damages because you towed my cars,**
 14 **mostly. If he put down the cans, put down the cans**
 15 **with it.**
 16 Q. Are you seeking money from the towing company for
 17 the cans?
 18 A. **I don't know. Is it in there?**
 19 Q. What about --
 20 A. **Is it in the paperwork? If it's in the paperwork, I**
 21 **am. If it's not, I'm not.**
 22 Q. Okay.
 23 A. **These are questions you have to ask Mr. Thrower.**
 24 Q. All right. What about bumper wrap, two bags of
 25 salt, doghouse --

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1 A. If it's written down. Is it written down on one of
2 your sheets?
3 Q. But you don't have any independent personal
4 knowledge of seeking --
5 A. He said something about other stuff, right, at some
6 point.
7 Q. All right.
8 A. I'm mostly upset with the towing of the cars which
9 shouldn't have occurred anyway.
10 Q. Okay.
11 A. But yes, if that's written down, then it's written
12 down.
13 Q. Okay. Do you have any independent knowledge of how
14 much you're seeking from the --
15 A. No, it's in the paperwork.
16 Q. Okay.
17 A. I don't have any knowledge of any of this. He let
18 me know this stack is this, this stack is this.
19 Here's the date, sign it. Fine. That's what he's
20 for.
21 Q. Do you have any knowledge --
22 A. I have knowledge of the fact that I'm going home and
23 going to bed because this is getting stupid. I'm
24 real sorry, you're sweet and everything, but I'm
25 going home and going to bed. I don't feel well.

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1 MR. THROWER: Hey, just listen.
2 THE WITNESS: Listen, I'm mad now. I
3 don't feel well and you didn't treat me good today,
4 and I told you this. All right. I told you I was
5 going to lose it if you were mean and were you mean
6 on the way here. I told you this. I told you good,
7 loud and clear. I'm very clear, that's something I
8 am, okay. I told you I was going to get tired and
9 run out of patience. Did I not tell you that, yes
10 or no? Did I tell you that?
11 MR. THROWER: Just answer the questions
12 and make it short.
13 THE WITNESS: No, did I tell you that,
14 yes or no? Did I tell you that?
15 MR. THROWER: We're in the middle of a
16 deposition.
17 THE WITNESS: I don't care. Did I tell
18 you that? Did I explain that to you that I don't
19 feel well and I'm going to get crabby if you're
20 mean. Did I tell you that? Yes or no?
21 MR. THROWER: Yeah.
22 THE WITNESS: Okay, I'm mean. I'm ready
23 to go home. I don't feel well. I never had
24 interest in this in the first place except, you
25 know, it sounded like a good idea at the time.

1 Obviously, it was not. I mean, are you good? I
2 hope.
3 BY MS. MEAD:
4 Q. I've got a few more questions and then I'm done.
5 Okay.
6 A. Quickly, please.
7 Q. Okay. Now as far as the individuals, the individual
8 Hertz, Sandra Hertz, Edward Hertz, Bruce Hertz,
9 Dennis Hertz, Randy Hertz. Do you have -- what
10 facts do you have that any of those individuals
11 entered into a conspiracy with the City of Warren,
12 defendants?
13 A. I have this knowledge. Everybody hates him, okay.
14 So stuff happens to happen to this dude because
15 nobody -- because he does things that people don't
16 like. Now, when you do things people don't like,
17 they tend to turn on you. The whole city of
18 Warren's turned on him. He's not allowed to own
19 rental property in the city of Warren. They hate
20 him. So, yes, things happen to people that people
21 hate, okay? You understand? Okay.
22 Q. Can I ask -- and I just want to clarify for the
23 record.
24 A. Clarify.
25 Q. When you say him --

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1 A. Albert Thrower, right here. He's the hated one,
2 believe me. They hate him in Ohio too, not just
3 Michigan. Two states, two states. I've never heard
4 of this in my whole entire 55-year-old life of
5 somebody being hated as much as this man is hated.
6 And believe me the City of Cleveland hates him just
7 as much as the City of Warren. I've never, you
8 know, had a friend like this. I hope never to
9 again.
10 Q. Do you know of any facts, do you know anything
11 that --
12 A. Facts? The whole city of Warren is hearsay. We all
13 talk --
14 MR. THROWER: Just let her answer (sic)
15 the question so we can get out of here. She hasn't
16 even asked -- just let her ask her question.
17 THE WITNESS: I don't care, I told you
18 I'm crabby.
19 MR. THROWER: So we can get out of here.
20 THE WITNESS: No, I told you I'm crabby.
21 MR. THROWER: Listen to the question.
22 THE WITNESS: I don't have to listen to
23 shit. I don't feel well and I'm dying and I don't
24 want to spend my time like this. I told you I was
25 going to get mean and nasty if you were mean. I

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1 don't do mean, okay. You want to be mean to me, any
 2 friend of mine, I'm fighting back because I don't
 3 care anymore. Do you understand? I tell all my
 4 friends this, every single one of them. You want to
 5 be mean, I'm going to throw the porcupine back at
 6 you. You said that was the legal battlefield.
 7 MR. THROWER: Just let her ask the
 8 question.
 9 THE WITNESS: Why? I'm mad now, I'm here
 10 and I'm angry.
 11 MS. MEAD: We're wrapping up.
 12 THE WITNESS: Why don't you go outside?
 13 Why don't you go outside? That's a good idea. I
 14 went outside during your portion. Why don't you go
 15 outside during mine? Because that would make me
 16 less mad.
 17 MR. THROWER: Okay, that's fine.
 18 THE WITNESS: Thank you.
 19 MR. THROWER: Here, before -- I assume
 20 you can take service on the --
 21 MS. SELINA: No, I'm not authorized to
 22 accept service.
 23 MR. THROWER: Well, what I'm going to do
 24 is under the federal rules, that you are the lawyer
 25 of record, so if that's an issue --

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1 MS. SELINA: I am not lawyer of record.
 2 And in a new action I'm not accepting service.
 3 MR. THROWER: Well, you witnessed that I
 4 gave service right here.
 5 MS. SELINA: It's on the record.
 6 MR. THROWER: Here's for --
 7 MS. MEAD: And I am not accepting service
 8 for --
 9 MR. THROWER: Well, that shows that
 10 you're the lawyer of record.
 11 MS. SELINA: I'd like to make a record
 12 too.
 13 MR. THROWER: You can show the federal
 14 rules that you being the lawyer of record that you
 15 can't serve -- take service.
 16 MS. SELINA: Okay, so I have not been
 17 retained by the City of Warren in any new matter.
 18 I'm not authorized explicitly by the City, not
 19 authorized to accept service on behalf of any new
 20 action by Mr. Thrower or Ms. Nelson. I do represent
 21 the city in this action, but this is a new matter in
 22 which I have not filed an appearance and I'm not
 23 authorized to accept service.
 24 MR. THROWER: You've got to leave these
 25 -- you've go to leave these on the table --

1 THE WITNESS: They're on the table. Go.
 2 MR. THROWER: -- for service.
 3 THE WITNESS: Please go.
 4 MR. THROWER: All right.
 5 THE WITNESS: Thank you.
 6 MR. THROWER: Yeah, don't bring it out
 7 with you.
 8 MS. MEAD: I would also like to make a
 9 record that I have not been retained by Service
 10 Towing, Able Towing, any --
 11 THE WITNESS: You're not leaving me here,
 12 right?
 13 MR. THROWER: No.
 14 THE WITNESS: I'm just asking.
 15 MS. MEAD: The Hertz family members or
 16 anyone else to accept service of process on their
 17 behalf in any new matters.
 18 MS. SELINA: Okay.
 19 BY MS. MEAD:
 20 Q. Do you know Sandra Hertz?
 21 A. No.
 22 Q. Okay. Do you know of any facts that Sandra Hertz
 23 entered into a conspiracy with any of the City of
 24 Warren defendants?
 25 A. No.

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1 Q. What about Edward Hertz, do you know him?
 2 A. No.
 3 Q. Do you know of any facts that he entered into any
 4 conspiracy?
 5 A. No. Like I said, we just talk. It doesn't mean
 6 anything. There are no facts. It's just talk. We
 7 know what really happens, all of us, all of us that
 8 live there. Many of us are poor, but we don't have
 9 facts. We don't walk around with a sheet, no.
 10 Q. Okay.
 11 A. No, we don't have facts.
 12 Q. Okay. And is that true for Bruce Hertz,
 13 Dennis Hertz?
 14 A. I don't know any of those.
 15 Q. Okay, Randy Sullivan or Randy Hertz?
 16 A. I don't know any of those people.
 17 Q. Okay. And you don't have any facts that they
 18 entered into a conspiracy?
 19 A. No.
 20 MS. MEAD: All right, I don't have any
 21 other questions.
 22 MS. SELINA: I have just -- really quick,
 23 I promise.
 24 THE WITNESS: That's okay. Once he left
 25 I felt better.

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REDIRECT EXAMINATION

1 BY MS. SELINA:

2 Q. No, I understand.

3 A. Thank you.

4 Q. Do you have any facts to support the allegations in
5 the complaint against any of the City of Warren
6 defendants?7 A. I don't -- okay, they just towed the cars, that's
8 all I know. They should not have done that, period,
9 that's it. Obviously, you know, they were plated,
10 titled and all that, so they shouldn't have been
11 touched, period.12 MS. SELINA: Okay, all right, I'm all
13 good.14 THE WITNESS: I'm supposed to leave this
15 here, he said. I guess.16 MS. SELINA: I mean, I'm not accepting
17 service. But I'd like to order a full copy of both
18 depositions of Mr. Thrower and Ms. Nelson.19 MS. MEAD: I did not look at the
20 magistrate's or the judge's descriptions whether
21 they want -- whether they would accept minusccripts.22 MS. SELINA: Like the small versions.
23 We'll take the full size.24 MS. MEAD: I'll take the electronic as
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1 well.

2 (Deposition concluded about 12:23 p.m.)
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1 CERTIFICATE OF NOTARY PUBLIC - COURT REPORTER

2 I do certify that the attached
3 deposition was taken before me in the above-entitled
4 matter; that the witness was first sworn to testify
5 the truth; that the testimony contained herein was
6 by me reduced to writing in the presence of the
7 witness by means of stenography, and afterwards
8 transcribed upon a computer. The attached pages are
9 a true and complete transcript of the testimony and
10 proceedings.11 I do further certify that I am not
12 connected by blood or marriage with any of the
13 parties, their attorneys or agents, and that I am
14 not an employee of either of them, nor interested,
15 directly or indirectly, in the matter of
16 controversy.17 IN WITNESS WHEREOF, I have hereunto set
18 my hand and affixed my notarial seal at West
19 Bloomfield, Michigan, County of Oakland, this 2nd
20 day of August 2023.21 *Theresa L. Roberts*22 Theresa L. Roberts, CSR
23 Certified Shorthand Reporter - CSR-4870
24 Notary Public - Oakland County, MI
25 My commission expires 10-4-2027

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Original - Bureau
1st Copy - Petitioner
2nd Copy - Respondent

ADMINISTRATIVE HEARINGS BUREAU	DEFAULT DECISION AND ORDER	TICKET NO., AND PROPERTY ADDRESS Y025638 W 7568 HUDSON
8300 Common Road, Warren, Michigan 48093 Inspector, address, and telephone number <u>Frank Barolamont</u> CITY OF WARREN ONE CITY SQUARE WARREN, MICHIGAN 48093 Telephone <u>(586) 574-4700</u>		(586) 574-4700 Respondent's name and address ALBERT THROWER 7568 HUDSON WARREN, MI 48089

IT IS HELD that:

1. The Administrative Hearings Officer (AHO) finds that respondent is responsible by default of all blight violation counts.
2. Respondent had notice of the hearing date and time, and failed to appear on that date and time.
3. I Frank Barolamont provided respondent notice of this violation by posting a copy of the ticket in a prominent place at the address where the violation occurred or sent a copy of the ticket by first-class mail to respondent's last known address or personally served respondent with a copy of the ticket. This paragraph is made on my personal knowledge. If sworn as a witness, I can testify competently to the facts in this paragraph.

3/4/20
DateFrank Barolamont
Inspector

IT IS ORDERED that respondent:

1. ☒ Pay fines and costs in the amount of:

Count I \$1000 Count II Count III TOTAL \$1000
(Indicate 1st violation, 2nd Violation, or 3rd or more violation for each count)

2. ☐ Reimburse the City of Warren for enforcement costs in the amount of (see enforcement cost form).
3. ☐ Fines are waived because the violator is an owner-occupier of the dwelling, is a first-time offender, and has corrected the violation.
4. ☐ Other

IT IS ALSO ORDERED that if respondent fails to correct the violation(s) within 30 days, the City may direct the violation and request enforcement costs.

3/4/20
Date
Administrative Hearings Bureau Officer

Send payment to or pay in person at the 37th District Court. Make checks payable to the 37th District Court.

Respondent may file a motion to set aside this default decision and order within 21 days of the date of this order. Motion to Set Aside forms are available at the Violation's Bureau in the 37th District Court.

Respondent may appeal an adverse decision of the Administrative Hearings Bureau to the Macomb County Circuit Court within 28 days of the date of this order.

EX 8

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH NELSON and ALBERT THROWER,

Plaintiffs,

Case No. 2:22-cv-10918
Hon. Matthew F. Leitman
Mag. Judge Anthony P. Patti

-v-

SERVICE TOWING, INC., *et al.*,
Defendants.

Elizabeth Nelson
P.O. Box 1422
Warren, MI 48090
In Pro Per

Albert Thrower
P.O. Box 602637
Cleveland, OH 44102

Jennifer Mead (P57106)
P.O. Box 806042
St. Clair Shores, MI 48080
(313) 485-1250
Attorney for Service Towing, Inc.
Defendants
meadjenn@hotmail.com

Rachel C. Selina (P85430)
255 E. Brown Street, Ste. 320

Birmingham, MI 48009-6209
(248) 645-9680 rselina@berrymoorman.com

DEFENDANT DENNIS HERTZ'S
ANSWERS TO PLAINTIFFS' REQUESTS FOR ADMISSIONS

NOW COMES Defendant DENNIS HERTZ, by and through undersigned counsel,
pursuant to F.R.Civ.P. 36 and hereby responds to Plaintiffs' joint Requests For Admissions as
follows:

17. Admit that there was a privacy fence on the adjacent lot to the 7568 Hudson Ave
Warren MI address 5/1/20 when you towed the 4 cars. ADMIT/DENY

RESPONSE: Defendant Dennis Hertz cannot truthfully admit or deny this request as after a
reasonable inquiry, the information defendant knows or can readily obtain is insufficient to

Ex 9 p 1

enable defendant to admit or deny. As part of the inquiry, defendant reviewed plaintiff's Exhibit N, which is plaintiff's picture of a wooden fence but plaintiff's photo is so blurred and light that one cannot see precisely where the wooden fence is or on which property it is located.

18. Admit that all 4 vehicles towed from the 7568 Hudson Ave Warren MI 48091 address and the adjacent lot had Michigan license plates attached to them ADMIT/DENY
RESPONSE: Admit.

19. ADMIT/DENY that a vehicle owner under Michigan law cannot obtain license plates without showing proof of full coverage insurance
RESPONSE: Denied, as a vehicle owner in Michigan can obtain license plates by showing proof of no-fault, which is less coverage than "full coverage insurance".

44. Admit that ALBERT THROWER recovered 4 vehicles that were towed from 7568 Hudson Ave Warren MI 48091, 5/2/20, 5/3/20 ADMIT/DENY
RESPONSE: Admit, after a review of the towing invoices.

45. Admit that when ALBERT THROWER was in the SERVICE TOWING, INC., ABLE TOWING LLC office 5/2/20 that a black lady entered the office AFTER THROWER ENTERED OFFICE and the black lady was not told to wait outside by you or anyone else working in the office. ADMIT/DENY

RESPONSE: Defendant cannot truthfully admit or deny this request as after a reasonable inquiry, there is no recording or document which supports plaintiff's request. The information known to defendant or that he can readily obtain is insufficient to enable defendant to admit or deny.

Ex 9
P. 2

71. ADMIT/DENY that ELIZABETH NESLON would need a "helper" to retrieve 4 vehicles that were towed by SERVICE TOWING, INC., ABLE TOWING LLC and or Hertz Bros defendants 5/1/20 FROM 7568 Hudson Ave Warren MI 48091

RESPONSE: Denied, as plaintiff Nelson could travel to Service/Able Towing and redeem the vehicles herself.

91. ADMIT/DENY that two of the vehicles towed 5/1/20 from 7568 Hudson Ave Warren MI 48091 were on the concrete drive.

RESPONSE: Denied, as to the best of defendant's knowledge, information and memory, the vehicles were left on the grass.

92. ADMIT/DENY two of the vehicles were taken from behind a privacy fence

RESPONSE: Defendant cannot truthfully admit or deny this request as after a reasonable inquiry, the information defendant knows or can readily obtain is insufficient to enable defendant to admit or deny. As part of the inquiry, defendant reviewed plaintiff's Exhibit N, which is plaintiff's picture of a wooden fence but plaintiff's photo is so blurred and light that one cannot see precisely where the wooden fence is (or on which property it is located) in order to refresh his memory as to the location of each vehicle. Defendant's best memory is that each vehicle was parked on the grass and is unable to recall if any vehicle was behind a privacy fence.

94. Admit/Deny that you entered the property 7568 Hudson Ave Warren MI 48091 5/1/20 and towed 4 vehicles without ever seeing a search warrant

RESPONSE: Defendant admits that on 5/1/20 he, on behalf of the company, only towed 1 of the 4 vehicles (and denies that he towed 4 vehicles) and that he did not see a search warrant but in practice and custom, law enforcement does not normally show towing companies search warrants.

EK9

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH NELSON and ALBERT THROWER,

Plaintiffs,

Case No. 2:22-cv-10918
Hon. Matthew F. Leitman
Mag. Judge Anthony P. Patti

-x-

SERVICE TOWING, INC., *et al.*,
Defendants.

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Warren, MI 48090
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meadjenn@hotmail.com

Rachel C. Selina (P85430)
255 E. Brown Street, Ste. 320
Birmingham, MI 48009-6209
(248) 645-9680 rselina@berrymoorman.com

Sullivan
**DEFENDANT RANDY'S [HERTZ; INCORRECT NAME]
ANSWERS TO PLAINTIFFS' REQUESTS FOR ADMISSIONS**

NOW COMES Defendant RANDY [HERTZ; INCORRECT NAME], by and through undersigned counsel, pursuant to F.R.Civ.P. 36 and hereby responds to Plaintiffs' joint Requests For Admissions as follows:

17. Admit that there was a privacy fence on the adjacent lot to the 7568 Hudson Ave Warren MI address 5/1/20 when you towed the 4 cars. ADMIT/DENY

RESPONSE: Defendant cannot truthfully admit or deny this request as after a reasonable inquiry, the information defendant knows or can readily obtain is insufficient to enable defendant

Ex 10 p 1

to admit or deny. As part of the inquiry, defendant reviewed plaintiff's Exhibit N, which is plaintiff's picture of a wooden fence but plaintiff's photo is so blurred and light that one cannot see precisely where the wooden fence is or on which property it is located.

18. Admit that all 4 vehicles towed from the 7568 Hudson Ave Warren MI 48091 address and the adjacent lot had Michigan license plates attached to them ADMIT/DENY
RESPONSE: Admit.

19. ADMIT/DENY that a vehicle owner under Michigan law cannot obtain license plates without showing proof of full coverage insurance
RESPONSE: Denied, as a vehicle owner in Michigan can obtain license plates by showing proof of no-fault insurance, which is less coverage than "full coverage insurance".

44. Admit that ALBERT THROWER recovered 4 vehicles that were towed from 7568 Hudson Ave Warren MI 48091, 5/2/20, 5/3/20 ADMIT/DENY
RESPONSE: Admit, after a review of the towing invoices.

45. Admit that when ALBERT THROWER was in the SERVICE TOWING, INC., ABLE TOWING LLC office 5/2/20 that a black lady entered the office AFTER THROWER ENTERED OFFICE and the black lady was not told to wait outside by you or anyone else working in the office. ADMIT/DENY
RESPONSE: Defendant cannot truthfully admit or deny this request as after a reasonable inquiry, there is no recording, video or document which supports plaintiff's request. The information known to defendant or that he can readily obtain is insufficient to enable defendant to admit or deny.

EX 10

P 2

71. ADMIT/DENY that ELIZABETH NESLON would need a "helper" to retrieve 4 vehicles ~~that~~ were towed by SERVICE TOWING, INC., ABLE TOWING LLC and or Hertz Bros defendants 5/1/20 FROM 7568 Hudson Ave Warren MI 48091

RESPONSE: Denied, as plaintiff Nelson could travel to Service/Able Towing and redeem the vehicles herself.

91. ADMIT/DENY that two of the vehicles towed 5/1/20 from 7568 Hudson Ave Warren MI 48091 were on the concrete drive.

RESPONSE: Denied, as to the best of defendant's knowledge, information and memory, the vehicles were left on the grass.

92. ADMIT/DENY two of the vehicles were taken from behind a privacy fence

RESPONSE: Defendant cannot truthfully admit or deny this request as after a reasonable inquiry, the information defendant knows or can readily obtain is insufficient to enable defendant to admit or deny. As part of the inquiry, defendant reviewed plaintiff's Exhibit N, which is plaintiff's picture of a wooden fence but plaintiff's photo is so blurred and light that one cannot see precisely where the wooden fence is (or on which property it is located) in order to refresh his memory as to the location of each vehicle. Defendant's best memory is that each vehicle was parked on the grass and is unable to recall if any vehicle was behind a privacy fence.

94. Admit/Deny that you entered the property 7568 Hudson Ave Warren MI 48091 5/1/20 and towed 4 vehicles without ever seeing a search warrant

RESPONSE: Defendant admits that on 5/1/20 he, on behalf of the company, did not tow all 4 vehicles and that he did not see a search warrant but in practice and custom, law enforcement does not normally show towing companies or their drivers search warrants.

Ex 10


AFFIDAVIT OF PLAINTIFF ELIZABETH NELSON

Now comes the affiant under the penalty of perjury per 28 USC Section 1746 and avers:

- 1) Everything is true in the complaint and amended complaints and motion for summary judgment same as if rewritten herein
- 2) All exhibits are copies of originals
- 3) Affiant was in Ohio when notified cars missing, "self isolating" since she is deemed "at risk" for COVID 19
- 4) Doctor @ Eastern Michigan told affiant "do not come to Michigan because everything is going crazy because of COVID 19.
- 5) Affiant contacted ALBERT THROWER who was "self isolating being treated for prostate cancer at METROHEALTH CLEVELAND OHIO, to drive her to WARREN MICHIGAN to retrieve her vehicles
- 6) Affiant was terrified to travel to Michigan and have to interact with people while the COVID 19 was raging.
- 7) On 7/5/21, affiant took an ambulance to ASCENSION HOSPITAL 12 Mile & Hoover and was admitted for an infection.
- 8) Affiant pulled her 2008 Honda Civic behind house at 7568 Hudson Ave Warren Mi.
- 9) Honda was operable
- 10) Affiant was informed by ALBERT THROWER-LANDLORD THAT Warren Police, SERVICE TOWING INC., ROBERT SCOTT, JAMES CUMMINS, AND OTHERS HAD TOWED HER CAR.
- 11) Upon obtaining release of her car affiant notice that paint was missing where SERVICE TOWING INC., had towed her car from the rear
- 12) When towing her car, Warren Building Inspector and Robert Scott took her mower, WEBER grill, which pursuant to CITY COUNCIL ORDANCE 4/28/21 she was allowed to have. Affiant never received grill back and mower was broken when retrieved from Service Towing Inc., since thrown upside down in landlords 2011 Silverado which was towed at the same time.
- 13) Affiant needs DISCOVERY to name defendants that towed affiants cars 5/1/20 for liability, interrogatories, compensation & authenticate "chain of evidence" matters

Pursuant to Title 28 USC Section 1746 the affiant avers under the penalty of perjury that everything is true

5/18/2023


Affiant Elizabeth Nelson

Ex A

Ex 11